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TREATIES, &c.,

BETWEEN

GREAT BRITAIN AND CHINA;

AND BETWEEN

CHINA AND FOREIGN POWERS;

AND

ORDERS IN COUNCIL, RULES, REGULATIONS, ACTS OF PARLIAMENT, DECREES, AND NOTIFICATIONS

AFFECTING

BRITISH INTERESTS IN CHINA.

IN FORCE ON THE

1ST JANUARY, 1896.

BY

SIR EDWARD HERTSLET, K.C.B.

(Late Librarian and Keeper of the Papers, Foreign Office).

Compiler and Editor of "Hertslet's Commercial Treaties;" the "British and Foreign State Papers;" "The Map of Europe by Treaty;" "The Map of Africa by Treaty;" "The Foreign Office List," &c., &c.

VOL. II.

LONDON:

HARRISON & SONS, 59, PALL MALL,

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1896.

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* An analysis of the Japanese Commercial Treaties was published in a separate volume in 1879.

† The Construction of this Order in Council came under the consideration of the Judicial Committee of the Privy Council in the appeal case of Hart v. Gumpach. [4 Privy Council Reports 439.

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At the Court at Windsor, the 9th day of March, 1865.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS an Act of Parliament was passed in the Session of the 6th and 7th years of Her Majesty's reign (chapter 80*) "for the better Government of Her Majesty's subjects resorting to China."

And whereas by that Act it was enacted (among other things) that it should be lawful for Her Majesty, by any Order or Orders made with the advice of Her Privy Council, to ordain for the government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within any ship or vessel at a distance of not more than one hundred miles from the coast of China, any law or ordinance which to Her Majesty in Council might seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects being within Her Majesty's Island of Hong Kong:

And whereas another Act of Parliament was passed in the same Session (chapter 94†) "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions and to render the same more effectual" (to which Act the expression The Foreign Jurisdiction Act when hereafter used in this Order refers):

And whereas by The Foreign Jurisdiction Act it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had and now has power and jurisdiction in the dominions of the Emperor of China and in the dominions of the Tycoon of Japan:

And whereas Her Majesty was pleased from time to time, by and with the advice of Her Privy Council, by Orders in Council of the several dates in the Schedule to this Order specified, to ordain laws and ordinances for the better government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within certain ships or vessels at a distance of not more than one hundred miles from the coast of China, and to make provision for the exercise of Her Majesty's power and jurisdiction aforesaid in the dominions of the Emperor of China and of the Tycoon of Japan respectively:

And whereas it has seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient at the present time to revise the provisions of the said Orders, and to ordain further and other laws and ordinances for the better government of Her

* H. T. Vol. 6. Page 251.
† H. T. Vol. 6. Page 600.

Majesty's subjects being within the dominions of the Emperor of China, or being within such ships or vessels as aforesaid, and to make further and other provision for the due exercise of Her Majesty's power and jurisdiction aforesaid, and particularly for the more regular and efficient administration of justice among Her Majesty's subjects resident in or resorting to the dominions of the Emperor of China or of the Tycoon of Japan:

And whereas under the authority of provisions in this behalf in the first-recited Act contained, ordinances for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within certain ships or vessels at a distance of not more than one hundred miles from the coast of China, have been from time to time made by the Superintendent of the Trade of Her Majesty's subjects in China (such Superintendent being also the Governor of Hong Kong), with the advice of the Legislative Council of Hong Kong, which ordinances are known as Consular Ordinances:

And whereas such of those Consular Ordinances as are described in the schedule to this Order are now in force, wholly or in part, but they are liable to repeal by Order of Her Majesty in Council, and it is expedient that they be repealed, such of their provisions as are not intended to be abrogated being consolidated with this Order:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the first-recited Act and The Foreign Jurisdiction Act, or either of them, or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

I.—Preliminary.

1. This Order may be cited as The China and Japan Order in Council, 1865.

2. In this Order—

The term "China" means the dominions of the Emperor of China:

The term "Japan" means the dominions of the Tycoon of Japan:

The term "Minister" means the superior diplomatic representative of Her Majesty for the time being, whether Ambassador, Envoy, Minister Plenipotentiary, or Chargé d'Affaires:

The term "Chief Superintendent of Trade" means the Superintendent of the trade of Her Majesty's subjects in China for the time being, or any person for the time being authorised to act as such:

The term "Consular Officer" includes every officer in Her Majesty's Consular Service, whether Consul-General, Consul, Vice-Consul, or Consular Agent, or person authorised to act in any such capacity in China or in Japan:

The term "British vessel" includes every vessel being a British ship within the meaning of The Merchant Shipping Act, 1854, or

any other Act of Parliament for the time being in force, for the regulation of merchant shipping,—and any vessel owned wholly or in part by any person entitled to be the owner of a British ship in the sense aforesaid,—and any vessel provided with sailing-letters from the Governor or Officer administering the Government of Hong Kong, or from the Chief Superintendent of Trade:

The term "Treaty" includes Convention and any Agreement, Regulations, Rules, Articles, Tariff, or other instrument annexed to a Treaty or agreed on in pursuance of any stipulation thereof:

The term "month" means calendar month:

Words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

3. The provisions of this Order relating to British subjects apply to all subjects of Her Majesty, whether by birth or by naturalization.

The provisions of this Order relating to foreigners apply to subjects of the Emperor of China and of the Tycoon of Japan respectively, and subjects or citizens of any State other than China or Japan (not being enemies of Her Majesty).

II.—General Provisions respecting Her Majesty's Jurisdiction.

4. All Her Majesty's jurisdiction exerciseable in China or in Japan for the judicial hearing and determination of matters in difference between British subjects, or between foreigners and British subjects, or for the administration or control of the property or persons of British subjects,—or for the repression or punishment of crimes or offences committed by British subjects,—or for the maintenance of order among British subjects,—shall be exercised under and according to the provisions of this Order, and not otherwise.

5. Subject to the other provisions of this Order, the civil and criminal jurisdictions* aforesaid shall, as far as circumstances admit, be exercised upon the principles of and in conformity with the Common Law, the Rules of Equity, the Statute Law, and other law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before Courts of Justice and Justices of the Peace in England, according to their respective jurisdictions and authorities.

6. Except as to offences made or declared such by this Order, or by any regulation or rule made under it,—

Any act other than an act that would by a Court of Justice having criminal jurisdiction in England be deemed a crime or offence making the person doing such act liable to punishment in

* See Rules of the Supreme and other Courts in China (Criminal Cases), 7th November, 1878 (No. 83 Page 617

England, shall not, in the exercise of criminal jurisdiction under this Order, be deemed a crime or offence making the person doing such act liable to punishment.

III.—Constitution of Her Majesty's Courts.

I.—The Supreme Court at Shanghai.

7. There shall be a court styled Her Britannic Majesty's Supreme Court for China and Japan.

The Supreme Court shall have a seal bearing its style and such device as one of Her Majesty's Principal Secretaries of State from time to time directs.

8. The Supreme Court shall hold its ordinary sittings at Shanghai, or, on emergency, at any other place within the district of the Consulate of Shanghai; but may at any time transfer its ordinary sittings to any such place in China as one of Her Majesty's Principal Secretaries of State or Her Majesty's Minister in China approves.

9—22.*

23.† The Judge, Assistant Judge, and Law Secretary shall hold office during the pleasure of Her Majesty, but any warrant of appointment to the office of Judge, Assistant Judge, or Law Secretary shall not be vacated by reason only of a demise of the Crown.

In case at any time Her Majesty thinks fit by warrant under Her Royal sign manual to revoke the warrant appointing any person to be Judge, Assistant Judge, or Law Secretary,—or while there is a Judge, Assistant Judge, or Law Secretary in office, thinks fit by warrant under Her Royal sign manual to appoint another person to be Judge, Assistant Judge, or Law Secretary (as the case may be),—then and in every such case, until the warrant of revocation or of new appointment is notified by Her Majesty's Minister in China to the person holding office, all powers and authorities vested in that person shall continue and be deemed to have continued in as full force,—and he shall continue and be deemed to have continued entitled to all the privileges and emoluments of the office as fully,—and all things done by him shall be and be deemed to have been as valid in law,—as if such warrant of revocation or new appointment had not been made.

24.† One of Her Majesty's Principal Secretaries of State may, and Her Majesty's Ministers in China and Japan respectively, with the approval of the Judge of the Supreme Court in each instance first obtained, may from time to time temporarily attach to the Supreme Court any persons holding appointments as Consuls or Vice-Consuls.

Every person so attached shall discharge such duties in connexion with the Court as the Judge from time to time, with the

* 9—22 revoked by Order in Council of 14th August, 1878. Page 610.
† Applied to Japan by Order in Council of 14th August, 1878. Page 610.

approval of one of Her Majesty's Principal Secretaries of State, directs, and shall have the like power and authority as the Assistant Judge or Law Secretary has, according as in each case the nature of the duties directed to be discharged by the person so attached may require.

II.—Provincial Courts.

25. Each of Her Majesty's Consuls-General, Consuls, and Vice-Consuls holding a commission as such from Her Majesty) resident in China or in Japan (with the exception of Her Majesty's Consul at Shanghai, and with such other exceptions as one of Her Majesty's Principal Secretaries of State at any time thinks fit to make), or any person acting temporarily, with the approval of one of Her Majesty's Principal Secretaries of State or of Her Majesty's Minister in China or in Japan, as and for a Consul-General, Consul, or Vice-Consul, so commissioned as aforesaid, shall, for and in his own Consular district, hold and form a Court styled Her Britannic Majesty's Court at [*Canton, or as the case may be*] hereafter in this Order called a Provincial Court.

Each Provincial Court shall have a seal bearing its style and such device as one of Her Majesty's Principal Secretaries of State from time to time directs.

IV.—Juries. Assessors.

26. Every male British subject resident in China or in Japan,—being of the age of 21 years or upwards,—being able to speak and read English,—having or earning a gross income at the rate of not less than 250 dollars a year,—not having been attainted of treason or felony, or convicted of any crime that is infamous (unless he has obtained a free pardon),—and not being under outlawry,—shall be qualified to serve on a jury.

27. All persons so qualified shall be liable so to serve, except the following:—

Persons in Her Majesty's Diplomatic, Consular, or other Civil service in actual employment;

Officers, clerks, keepers of prisons, messengers, and other persons attached to or in the service of any of Her Majesty's Courts;

Officers and others on full pay in Her Majesty's Navy or Army, or in actual employment in the service of any Department connected therewith;

Persons holding appointments in the Civil service, and Commissioned Officers in the Naval or Military service of the Emperor of China or of the Tycoon of Japan;

Clergymen and ministers in the actual discharge of professional duties;

Advocates and attorneys in actual practice;

Physicians, surgeons, and apothecaries in actual practice; and except persons disabled by mental or bodily infirmity.

28. On or before the 14th day of December in the year 1865,

and on or before the 14th day of January in every subsequent year, each Court shall make out a list of the persons so qualified and liable, resident within its district.

The list shall, on or before the 21st day of the same respective month, be affixed in some conspicuous place in the Court, and shall be there exhibited until the end of that month, with a notice annexed that on a day specified, not being sooner than the 7th or later than the 14th day of the then next month, the Court will hold a special sitting for the revision of the list.

The Court shall hold such special sitting accordingly, and at such sitting, or at some adjournment thereof (of which public notice shall be given), shall revise the list by striking out the name of any person appearing to be not qualified or not liable to serve, and by inserting the name of any person omitted and appearing to be so qualified and liable, either on the application of the person omitted, or on such notice to him as the Court thinks fit.

The list shall be finally revised and settled not later than the 21st day of October in the year 1865, and not later than the 21st day of February in every subsequent year, and when settled shall be affixed in some conspicuous place in the Court, and be there exhibited during not less than two months.

Such list, as settled, shall be brought into use in the year 1865, on the 1st day of November, and in every subsequent year on the 1st day of March, and in every case shall be used as the Jury List of the Court until the 1st day of March next after the time of its being brought into use.

29. Where, in pursuance of this Order, a jury is ordered, the Court shall summon so many of the persons comprised in the jury list, not fewer than fifteen, as seem requisite.

Any person failing to attend according to such summons shall be liable to such fine, not exceeding 50 dollars, as the Court thinks fit to impose.

Any such fine shall not be levied until after the expiration of 14 days. The proper officer of the Court shall forthwith give to the person fined notice in writing of the imposition of the fine, and require him within six days after receipt of the notice to file an affidavit excusing his non-attendance (if he desires to do so). The Court shall consider the affidavit, and may, if it seems proper, remit the fine.

30. A jury shall consist of five jurors.

31. In civil and in criminal cases the like challenges shall be allowed as in England, with this addition,—that in civil cases each party may challenge three jurors peremptorily.

32. A jury shall be required to give an unanimous verdict.

33. Where a Provisional Court proceeds, in pursuance of this Order, to hear and determine any case, civil or criminal, with Assessors, the Court shall nominate and summon as Assessors not less than two and not more than four indifferent British subjects of good repute, resident in the district of the Court.

Where, however, by reason of local circumstances, the Court is able to obtain the presence of one fit person only as Assessor, the Court may sit with him alone as Assessor; and where for like reasons the Court is not able to obtain the presence of any fit person as Assessor, the Court may (notwithstanding anything in this Order) sit without an Assessor; but in every such case the Court shall record in the minutes of proceedings its reasons for sitting with one Assessor only, or without an Assessor.

34. An Assessor shall not have voice or vote in the decision of the Court in any case, civil or criminal; but an Assessor dissenting in a civil case from any decision of the Court, or in a criminal case from any decision of the Court or the conviction or the amount of punishment awarded, may record in the minutes of proceedings his dissent and the grounds thereof: and an Assessor dissenting shall be entitled to receive gratis a certified copy of the minutes.

V.—Jurisdiction and Authorities of Her Majesty's Courts.

I.—In General.

35. All Her Majesty's jurisdiction, civil and criminal, exercise-able in China, shall, for and within the district of the Consulate of Shanghai, be vested exclusively in the Supreme Court as its ordinary original jurisdiction.

36.* All Her Majesty's jurisdiction, civil and criminal, exercise-able in China beyond the district of the Consulate of Shanghai and not under this Order vested exclusively in the Supreme Court, —and all Her Majesty's jurisdiction, civil and criminal, exercise-able in Japan and not under this Order vested exclusively in the Supreme Court, —shall, to the extent and in the manner provided by this Order, be vested in the Provincial Courts each for and within its own district.

37.* The Supreme Court shall have, in all matters civil and criminal, an extraordinary original jurisdiction throughout China and Japan concurrent with the jurisdiction of the several Provincial Courts, such extraordinary jurisdiction to be exercised subject and according to the provisions of this Order.

38.† The Judge of the Supreme Court may, from time to time, visit in a magisterial or judicial capacity any Provincial Court, and there inquire of, or hear and determine, any case, civil or criminal, pending in that Court, or arising within its district,—or, from time to time, may appoint the Assistant Judge or the Law Secretary of the Supreme Court to visit in the like capacity and for the like purpose any Provincial Court.

39.† A Provincial Court may, of its own motion, or on the application of any person concerned, report to the Supreme Court the pendency of any case, civil or criminal, which appears to the

* Revoked as regards Japan only by Order in Council of 14th August, 1878. Page 610.

† Applied to Japan by Order in Council of 14th August, 1878. Page 610.

Provincial Court fit to be heard and determined by the Supreme Court.

The Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the same shall be so heard and determined accordingly.

40. Every Court shall, in the exercise of every part of its respective jurisdiction, be a Court of Record.

41.* The Judge of the Supreme Court may from time to time admit fit persons to practise in the Supreme Court as barristers, attorneys, and solicitors, or in any of those capacities.

The Judge of the Supreme Court may from time to time, subject to the approval of one of Her Majesty's Principal Secretaries of State, make rules for regulating the admission of persons to practise as aforesaid in Provincial Courts.

42.* Her Majesty's Consul at Shanghai shall have all the powers and authorities of the Sheriff of a county in England, with all the privileges and immunities of the office, and as such Sheriff shall be charged with the execution of all decrees, orders, and sentences made and passed by the Supreme Court, on the requisition in that behalf of the Supreme Court.

43.* Each Provincial Court shall execute any writ, order, or warrant issuing from the Supreme Court and directed to the Provincial Court;—and may take security from any person named therein for his appearance personally or by attorney, according to the writ, order, or warrant;—or may cause such person to be taken, in custody or otherwise, to the Supreme Court, or elsewhere in China or Japan, according to the writ, order, or warrant.

44. Any of Her Majesty's Courts in China or in Japan may execute any writ, order, or warrant issuing from the Supreme Court of Hong Kong, and accompanied by a request for such execution in writing under the seal of that Court;—and may take security from any person named in any such writ, order, or warrant for his appearance personally or by attorney at Hong Kong;—or may cause any such person to be taken in custody or otherwise, to Hong Kong, according to the writ, order, or warrant.

45. Any of Her Majesty's Judicial or Consular Officers shall not be liable to an action for the escape of any person taken under any writ, order, or warrant of the Supreme Court of Hong Kong.

46. Her Majesty's several Courts in China and Japan shall be auxiliary to one another in all particulars relative to the administration of justice, civil or criminal.

47.* Each Provincial Court shall every six months furnish to the Supreme Court for China and Japan a report respecting every case, civil and criminal, brought before it, in such form as the Judge of the Supreme Court from time to time directs.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

II.—In Civil Matters.

Reconciliation and Arbitration.

48. Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it

49. A Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any one of them, security to abide by the result of the reference.

In any case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or re-hearing whatever.

50. Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

General Authority of Courts.

51. The Supreme and every other Court shall be a Court of Law and of Equity.

Special Authorities of Courts.

52. The Supreme and every other Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have (as to a Provincial Court, for and within its own district), with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy and the County Courts in England, or to any other judicial authority having for the time being jurisdiction in Bankruptcy in England.

53. The Supreme and every other Court shall (as to a Provincial Court, for and within its own district), have and discharge all the powers, rights, and duties appertaining to the office of Coroner in England,—summoning when necessary a jury of not less than three persons comprised in the Jury List of the Court.

Any person failing to attend according to such summons shall be liable to the like fine, to be levied in the like manner, as in

this Order provided with reference to juries in civil and criminal proceedings.

54.* The Supreme Court shall be a Vice-Admiralty Court, and as such shall, for and within China and Japan, and for vessels and persons coming to and within China or Japan, have all such jurisdiction as for the time being ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad.

55.* The Supreme Court shall, as far as circumstances admit, have in itself exclusively, for and within China and Japan, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England intrusted by virtue of Her Majesty's sign manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England, idiot, lunatic, or of unsound mind.

56.* The Supreme Court shall be a Court for Matrimonial Causes, and as such shall, as far as circumstances admit, have in itself exclusively, for and within China and Japan, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

57.* The Supreme Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within China and Japan, with respect to the property of British subjects having at the time of death their fixed places of abode in China or Japan, all such jurisdiction as for the time being belongs to Her Majesty's Court of Probate in England.

A Provincial Court shall, however, also have power to grant probate or administration when there is no contention respecting the right to the grant, and it is proved on oath that the deceased had at the time of his death his fixed place of abode within the jurisdiction of the Provincial Court.

Probate or administration granted by a Provincial Court shall have effect over all the property of the deceased within China and Japan, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

58. Any person having in his possession or under his control any paper or writing of a deceased British subject being or purporting to be testamentary, shall forthwith bring the original to the Court within the district whereof such person is at the time of his first knowledge of the death of the deceased, and deposit it there.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

II.—In Civil Matters.

Reconciliation and Arbitration.

48. Every Court may promote reconciliation, and encourage and facilitate the settlement in an amicable way of any suit or proceeding pending before it

49. A Court may, with the consent of the parties, refer to arbitration the final determination of any suit or proceeding pending before it, or of all matters in difference between the parties, on such terms and with such directions as to appointment of an arbitrator and other things as may seem fit, and may, if it thinks fit, take from the parties, or any one of them, security to abide by the result of the reference.

In any case the award shall be final and conclusive.

On the application of any party a decree of the Court may be entered in conformity with the award, and such decree shall not be open to any appeal or re-hearing whatever.

50. Every agreement for reference to arbitration or submission to arbitration by consent may, on the application of any party, be made a rule of a Court having jurisdiction in the matter of the reference or submission, which Court shall thereupon have power and authority to enforce the agreement or submission and the award made thereunder, and to control and regulate the proceedings before and after the award in such manner and on such terms as may be just.

General Authority of Courts.

51. The Supreme and every other Court shall be a Court of Law and of Equity.

Special Authorities of Courts.

52. The Supreme and every other Court shall be a Court of Bankruptcy, and as such shall, as far as circumstances admit, have (as to a Provincial Court, for and within its own district), with respect to British subjects and to their debtors and creditors, being either British subjects or foreigners submitting to the jurisdiction of the Court, all such jurisdiction as for the time being belongs to the Court of Bankruptcy and the County Courts in England, or to any other judicial authority having for the time being jurisdiction in Bankruptcy in England.

53. The Supreme and every other Court shall (as to a Provincial Court, for and within its own district), have and discharge all the powers, rights, and duties appertaining to the office of Coroner in England,—summoning when necessary a jury of not less than three persons comprised in the Jury List of the Court.

Any person failing to attend according to such summons shall be liable to the like fine, to be levied in the like manner, as in

this Order provided with reference to juries in civil and criminal proceedings.

54.* The Supreme Court shall be a Vice-Admiralty Court, and as such shall, for and within China and Japan, and for vessels and persons coming to and within China or Japan, have all such jurisdiction as for the time being ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad.

55.* The Supreme Court shall, as far as circumstances admit, have in itself exclusively, for and within China and Japan, with respect to British subjects, all such jurisdiction relative to the custody and management of the persons and estates of persons of unsound mind as for the time being belongs to the Lord Chancellor or other person or persons in England intrusted by virtue of Her Majesty's sign manual with the care and commitment of the custody of the persons and estates of persons found by inquisition in England, idiot, lunatic, or of unsound mind.

56.* The Supreme Court shall be a Court for Matrimonial Causes, and as such shall, as far as circumstances admit, have in itself exclusively, for and within China and Japan, with respect to British subjects, all such jurisdiction, except the jurisdiction relative to dissolution or nullity or jactitation of marriage, as for the time being belongs to the Court for Divorce and Matrimonial Causes in England.

57.* The Supreme Court shall be a Court of Probate, and as such shall, as far as circumstances admit, have, for and within China and Japan, with respect to the property of British subjects having at the time of death their fixed places of abode in China or Japan, all such jurisdiction as for the time being belongs to Her Majesty's Court of Probate in England.

A Provincial Court shall, however, also have power to grant probate or administration when there is no contention respecting the right to the grant, and it is proved on oath that the deceased had at the time of his death his fixed place of abode within the jurisdiction of the Provincial Court.

Probate or administration granted by a Provincial Court shall have effect over all the property of the deceased within China and Japan, and shall effectually discharge persons dealing with an executor or administrator thereunder, and that notwithstanding any defect afterwards appears in the grant.

Such a grant shall not be impeachable by reason only that the deceased had not at the time of his death his fixed place of abode within the particular jurisdiction.

58. Any person having in his possession or under his control any paper or writing of a deceased British subject being or purporting to be testamentary, shall forthwith bring the original to the Court within the district whereof such person is at the time of his first knowledge of the death of the deceased, and deposit it there.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

Any person neglecting to do so for fourteen days after having knowledge of the death of the deceased, shall be liable to such penalty, not exceeding 250 dollars, as the Court thinks fit to impose.

59.* From the death of a British subject, having at the time of death his fixed place of abode in China or Japan, intestate, until administration granted, his personal property within China and Japan shall be vested in the Judge of the Supreme Court, as the personal property of an intestate in England is vested in the Judge of Her Majesty's Court af Probate there.

60. If any person, other than one of Her Majesty's Consular Officers, takes possession of and in any manner administers any part of the personal property of any person deceased without obtaining probate or administration within three months after the death of the deceased,—or within one month after the termination of any suit or dispute respecting probate or administration (if there is any such which is not ended within two months after the death of the deceased),—he shall be liable to such penalty not exceeding 500 dollars as the Court having jurisdiction in the matter of the property of the deceased thinks fit to impose; and in every such case the same fees shall be payable by the person so administering as would have been payable by him if he had obtained probate or administration.

61.* Where a British subject, not having at the time of death his fixed place of abode in China or Japan, dies there, the Court within whose district he dies shall, where the circumstances of the case appear to the Court so to require, forthwith on the death of the deceased, or as soon after as may be, take possession of his personal property within the particular jurisdiction or put it under the seal of the Court (in either case, if the nature of the property or other circumstances so require, making an inventory), and so keep the property until it can be dealt with according to law.

Trial with a Jury.

62.* Where a suit originally instituted in the Supreme Court relates to money goods or other property or any matter at issue of the amount or value of 1,500 dollars or upwards, or is brought for recovery of damages of the amount of 1,500 dollars or upwards,—the suit shall, on the demand of either party, be, under order of the Court, tried with a jury.

In any case (except where, according to the rules of the Court, the suit is to be heard and determined in a summary way) a suit so instituted may be tried with a jury, if the Court, of its own motion or on the application of either party, thinks fit so to order.

One of Her Majesty's Principal Secretaries of State may, by order under his hand, extend the present provision to any Provincial Court where it appears to him there is a sufficient jury list.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

Trial with Assessors.

63. Where a suit instituted in a Provincial Court relates to money, goods, or other property of a less amount or value than 1,500 dollars,—or does not relate to or involve, directly or indirectly, a question respecting any matter at issue of the amount or value of 1,500 dollars or upwards,—or is brought for recovery of damages of a less amount than 1,500 dollars,—the Court may hear and determine the case without Assessors.

In all other cases the Court (subject to the provisions of this Order respecting inability to obtain an Assessor) shall hear and determine the case with Assessors.

III.—In Criminal Matters.

64. Every Court may cause to be apprehended and brought before it any British subject being within the district of the Court and charged with having committed a crime or offence in China or in Japan, and may deal with the accused according to the jurisdiction of the Court and in conformity with the provisions of this Order;—or where the crime or offence is triable, and is to be tried, in Her Majesty's dominions, may take the preliminary examination, and commit the accused for trial, and cause or allow him to be taken to the place of intended trial.

65. Where a person charged with having committed a crime or offence in the district of one Court escapes or removes from that district and is found within the district of another Court, the Court within the district of which he is found may proceed in the case to examination, indictment, trial, and punishment, or in a summary way (as the case may require), in the same manner as if the crime or offence had been committed in its own district;—or may, on the requisition or with the consent of the Court of the district in which the crime or offence is charged to have been committed, send him in custody to that Court, or require him to give security for his surrender to that Court, there to answer the charge and be dealt with according to law.

Where any person is to be sent in custody a warrant shall be issued by the Court within the district of which he is found, and such warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and carry him to and deliver him up to the Court of the district within which the crime or offence was committed, according to the warrant.

66. Where a warrant or order of arrest is issued by a competent authority in Her Majesty's dominions for the apprehension of a British subject, who is charged with having committed a crime or offence within the jurisdiction of the authority issuing the warrant or order, and who is or is supposed to be in China or in Japan, and the warrant or order is produced to any Court, the Court may back the warrant or order; and the same, when so

backed shall be sufficient authority to any person to whom the warrant or order was originally directed, and also to any constable or other officer of the Court by which it is backed, to apprehend the accused at any place where the Court by which the warrant or order is backed has jurisdiction, and to carry him to and deliver him up in Her Majesty's dominions, according to the warrant or order.

67.* Where any person is charged with the commission of a crime or offence the cognizance whereof appertains to any of Her Majesty's Courts in China or in Japan, and it is expedient that the crime or offence be inquired of, tried, determined, and punished within Her Majesty's dominions, the accused may (under The Foreign Jurisdiction Act, section 4) be sent for trial to Hong Kong.

The Judge of the Supreme Court may, where it appears expedient, by warrant under his hand and seal and the seal of the Supreme Court, cause the accused to be taken for trial to Hong Kong accordingly.

Where any person is to be so taken to Hong Kong, the Court before which he is charged shall take the preliminary examination, and shall send the depositions to Hong Kong, and (if it seems necessary or proper) may bind over such of the proper witnesses as are British subjects in their own recognizances to appear and give evidence on the trial.

68.* All crimes which in England are capital shall be tried by the Judge of the Supreme Court with a jury.

Other crimes and offences above the degree of misdemeanour, tried before the Judge, Assistant Judge, or Law Secretary of the Supreme Court, and not heard and determined in a summary way, shall be tried with a jury.

Any crime or offence tried before the Judge, Assistant Judge, or Law Secretary of the Supreme Court, may be tried with a jury where the Judge, Assistant Judge, or Law Secretary so directs.

Subject to the foregoing provisions, such classes of criminal cases tried before the Judge, Assistant Judge, or Law Secretary of the Supreme Court, as the Judge, having regard to the law and practice existing in England, from time to time directs, shall be heard and determined in a summary way.

69.* Where any person is sentenced to suffer the punishment of death, the Judge of the Supreme Court shall forthwith send a report of the sentence, with a copy of the minutes of proceedings and notes of evidence in the case, and with any observations the Judge thinks fit to Her Majesty's Minister in China or in Japan, according as the crime is committed in China or in Japan.

The sentence shall not be carried into execution without the direction of Her Majesty's Minister in China or in Japan (as the case may be) in writing under his hand.

In any such case, if Her Majesty's Minister in China or in Japan (as the case may be) does not direct that the sentence of death be carried into execution, he shall direct what punishment

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

in lieu of the punishment of death is to be inflicted on the person convicted, and the person convicted shall be liable to be so punished accordingly.

70. Where the crime or offence with which any person is charged before a Provincial Court is any crime or offence other than assault endangering life, cutting, maiming, arson, or housebreaking, and appears to the Court to be such that, if proved, it would be adequately punished by imprisonment, with or without hard labour, for a term not exceeding three months, or by a fine not exceeding 200 dollars, the Court shall hear and determine the case in a summary way and without Assessors.

In other cases the Court shall hear and determine the case on indictment and with Assessors (subject to the provisions of this Order respecting inability to obtain an Assessor).

71. A Provincial Court may impose the punishment of imprisonment for any term not exceeding twelve months, with or without hard labour, and with or without a fine not exceeding 1,000 dollars, or the punishment of a fine not exceeding 1,000 dollars, without imprisonment.

72.* Where the crime or offence with which any person is charged before a Provincial Court appears to the Court to be such that, if proved, it would not be adequately punished by such punishment as the Court has power to impose, and the accused is not to be sent for trial to Her Majesty's dominions, the Court shall reserve the case to be heard and determined by or under the special authority of the Supreme Court.

The Provincial Court shall take the depositions, and forthwith send them, with a minute of other evidence, if any, and a report on the case, to the Supreme Court.

The Supreme Court shall direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the same shall be so heard and determined accordingly.

73. Every Court and authority in imposing and inflicting punishments, and Her Majesty's Ministers in China and Japan in directing what punishment is to be inflicted in lieu of the punishment of death, shall have regard, as far as circumstances admit, and subject to the other provisions of this Order, to the punishments imposed by the law of England in like cases, and to the mode in which the same are inflicted in England.

74.* Any Court (but, in the case of a Provincial Court, subject to the approval of the Supreme Court), may order any person convicted before it of any crime or offence to pay all or any part of the expenses of or preliminary to his trial and of his imprisonment or other punishment.

75. Where it appears to any Court that any charge made before it is malicious, or is frivolous and vexatious, the Court may order all or any part of the expenses of the prosecution to be paid by the person making the charge.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

76. In either of the two last-mentioned cases, the amount ordered to be paid shall be deemed a debt due to the Crown, and may, by virtue of the order, without further proceedings, be levied on the property of the person convicted or making the charge, as the case may be.

77.* Where any punishment has been awarded by the Supreme or any other Court, then, if the circumstances of the case make it just or expedient, the Judge of the Supreme Court may at any time, and from time to time, report to one of Her Majesty's Principal Secretaries of State, or to Her Majesty's Minister in China or in Japan (according as the crime or offence was committed in China or Japan), recommending a mitigation or remission of the punishment; and on such recommendation any such punishment may be mitigated or remitted by direction of the authority to whom the report is made.

But no such recommendation shall be made with respect to any punishment awarded by a Provincial Court, except on the recommendation of that Court, or on the dissent of an Assessor (if any) from the conviction or from the amount of punishment awarded.

78.* The Judge of the Supreme Court may, where it seems expedient, by warrant under his hand and the seal of the Supreme Court, cause any offender convicted before any Court and sentenced to imprisonment to be taken to and imprisoned at any place in China or in Japan from time to time approved by one of Her Majesty's Principal Secretaries of State as a place of imprisonment for offenders.

A warrant of the Supreme Court shall be sufficient authority to the governor or keeper of such place of imprisonment or other person to whom it is directed to receive and detain there the person therein named, according to the warrant.

79*. Where any offender convicted before a Court in China or in Japan is sentenced to suffer imprisonment in respect of the crime or offence of which he is convicted, and it is expedient that the sentence be carried into effect within Her Majesty's dominions, the offender may (under The Foreign Jurisdiction Act, section 5,) be sent for imprisonment to Hong Kong.

The Judge of the Supreme Court may, where it seems expedient, by warrant under his hand and seal and the seal of the Supreme Court, cause the offender to be taken to Hong Kong in order that the sentence passed on him may be there carried into effect accordingly.

80.* The Judge of the Supreme Court shall, when required by one of Her Majesty's Principal Secretaries of State, send to the Secretary of State a report of the sentence passed by the Judge, Assistant Judge, or Law Secretary of the Court in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence, and the Judge may send with such report any observations he thinks fit.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

Every Provincial Court shall forthwith send to the Judge of the Supreme Court a report of the sentence passed by it in every case not heard and determined in a summary way, with a copy of the minutes of proceedings and notes of evidence, and with any observations the Court thinks fit. The Judge of the Supreme Court shall, when required by one of Her Majesty's Principal Secretaries of State, transmit the same to the Secretary of State, and may send therewith any observations he thinks fit.

VI.—War, Insurrection, or Rebellion.

81. If any British subject commits any of the following offences, that is to say:—

(1.) In China, while Her Majesty is at peace with the Emperor of China, levies war or takes part in any operation of war against the Emperor of China, or aids or abets any person in carrying on war, insurrection, or rebellion against the Emperor of China;

(2.) In Japan, while Her Majesty is at peace with the Tycoon of Japan, levies war or takes part in any operation of war against the Tycoon of Japan, or aids or abets any person in carrying on war, insurrection, or rebellion against the Tycoon of Japan;—

every person so offending shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 5,000 dollars, or by a fine not exceeding 5,000 dollars, without imprisonment.

In addition to such punishment, every such conviction shall, of itself and without further proceedings, make the person convicted liable to deportation;* and the Court before which he is convicted may order that he be deported from China or Japan to such place as the Court directs.

82. If any British subject without the licence of Her Majesty (proof whereof shall lie on the party accused) takes part in any operation of war in the service of the Emperor of China against any persons engaged in carrying on war, insurrection, or rebellion against the Emperor of China, he shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable (in the discretion of the Court before which he is convicted) to be punished by imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 5,000 dollars, or by a fine not exceeding 5,000 dollars, without imprisonment.

83.† If the Court before which any person charged with having committed such a misdemeanour as in the two last preceding Articles mentioned is brought is a Provincial Court, the Court

* See page 605.

† Applied to Japan by Order in Council of 14th August, 1878. Page 610.

shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

VII.—Treaties and Regulations.

84. If any British subject in China and Japan violates and fails to observe any stipulation of any Treaty between Her Majesty, Her heirs or successors, and the Emperor of China or the Tycoon of Japan for the time being in force, in respect of the violation whereof any penalty is stipulated for in the Treaty, he shall be deemed guilty of an offence against the Treaty, and on conviction thereof under this Order shall be liable to a penalty not exceeding the penalty stipulated for in the Treaty.

85—91.*

VIII.—Unlawful Trade with Japan.

92. All trade of British subjects in, to, or from any part of Japan, except such ports and towns as are for the time being opened to British subjects by Treaty between Her Majesty, Her heirs or successors, and the Tycoon of Japan, is hereby declared unlawful.

If any person engages in such trade as a principal, agent, shipowner, ship-master, or supercargo, he shall be deemed guilty of a misdemeanour, and on conviction thereof shall be liable to be punished (in the discretion of the Court before which he is convicted) by imprisonment for any term not exceeding two years with or without hard labour, and with or without a fine not exceeding 10,000 dollars, or by a fine not exceeding 10,000 dollars without imprisonment.

93.† If the Court before which any person charged with having committed such a misdemeanour is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

94. The officer commanding any of Her Majesty's vessels of war or any of Her Majesty's Naval Officers authorised in this behalf by the officer having the command of Her Majesty's Naval Forces in Japan, by writing under his hand, may seize any British vessel engaged or reasonably suspected of being or having been engaged in any trade by this Order declared unlawful, and may

* 85 to 91 repealed by Order in Council of 25th October, 1881. Page 619.
† Applied to Japan by Order in Council of 14th August, 1878. Page 610.

either detain the vessel, with the master, officers, supercargo, crew, and other persons engaged in navigating the vessel, or any of them, or take or cause to be taken the vessel, and the master, officers, supercargo, crew, and other persons aforesaid, or any of them, to any port or place in Japan or elsewhere convenient for the prosecution of a charge for the misdemeanour alleged to have been committed.

Any such vessel, master, officers, supercargo, crew, and persons may lawfully be detained at the place of seizure or at the port or place to which the vessel is so taken under the authority of any such officer, or of any of Her Majesty's Consular Officers in China or Japan, until the conclusion of any proceedings taken in respect of such misdemeanour.

IX.—Japan Waters.

95. When and as often as it appears to Her Majesty's Minister in Japan that the unrestricted entrance of British vessels into or the unrestricted passage of British vessels through any strait or other water in Japan may lead to acts of disturbance or violence, or may otherwise endanger the maintenance of peaceful relations and intercourse between Her Majesty's subjects and the subjects of the Tycoon of Japan, Her Majesty's Minister may make any regulation for prohibiting, or for restricting in such manner as seems expedient, the entrance or passage of any British vessel (other than a vessel of war of Her Majesty) into or through any such strait or other water as aforesaid as defined in the regulation.

Her Majesty's Minister may from time to time revoke or alter any such regulation.

96. The foregoing provisions of this Order relative to the making, printing, publication, enforcement, and proof of regulations to be made by Her Majesty's Minister in Japan, and to the mode of proceeding in respect of any charge for an offence against any such regulations, shall extend and apply, *mutatis mutandis*, to any regulation made by Her Majesty's Minister in Japan, as last aforesaid.

97. If any person navigating a British vessel wilfully violates, or wilfully attempts to violate any such regulation, the officer commanding any vessel of war of Her Majesty, or in charge of any boat belonging to such vessel of war, may use force for the purpose of compelling him to desist from the violation or attempted violation of the regulation, and if it appears necessary or expedient may seize the vessel, and such Commanding Officer may either detain her at the place of seizure, or take her, or cause her to be taken to any port or place in Japan or elsewhere, where the offender may be more conveniently prosecuted for such offence.

Any such vessel may lawfully be detained at the place of seizure, or at the port or place to which she is so taken, under the authority of any such Commanding Officer, or of any of Her

Majesty's Consular Officers in Japan, until the conclusion of any proceedings taken in respect of the offence.

X.—Piracy.

98. Any British subject being in China or in Japan may be proceeded against, tried, and punished under this Order for the crime of piracy wherever committed.

99.* If the Court before which a British subject charged with the crime of piracy is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

XI.—Offences against Religion.

100. If any British subject is guilty of publicly deriding, mocking, or insulting any religion established or observed in China or in Japan,—or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of China or in Japan, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof,—or of wilfully committing any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace,—he shall be liable (in the discretion of the Court before which he is convicted) to imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 500 dollars, or to a fine not exceeding 500 dollars, without imprisonment.

Notwithstanding anything in this Order, every charge against a British subject of having committed any such offence shall be heard and determined in a summary way, and any Provincial Court shall have power to impose the punishment aforesaid.

Her Majesty's Consular Officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

XII.—Authority within 100 Miles of Coast of China.†

101. Where a British subject, being after the commencement of this Order in China or in Japan, is charged with having committed, either before or after the commencement of this Order, any crime or offence within a British vessel at a distance of not more than 100 miles from the coast of China,—or within a Chinese

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.
† See Act of Parliament, 10th August, 1878. Page 616

or Japanese vessel at such a distance as aforesaid,—or within a vessel not lawfully entitled to claim the protection of the flag of any State, at such a distance as aforesaid,—any of Her Majesty's Courts in China or in Japan within the jurisdiction whereof he is found may cause him to be apprehended and brought before it, and may take the preliminary examination and commit him for trial.

102.* If the Court before which the accused is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode, and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

103. The provisions of this Order relative to crimes and offences, and proceedings in criminal matters, shall in all respects, as far as may be, extend and apply to every such case, in like manner as if the crime or offence had been committed in China or Japan.

104. Where a British subject, being after the commencement of this Order in Hong Kong, is charged with having committed, either before or after the commencement of this Order, any crime or offence within any British, Chinese, Japanese, or other such vessel at such a distance as aforesaid, the Supreme Court at Hong Kong shall have and may exercise authority and jurisdiction with respect to the crime and offence as fully as if it had been committed in Hong Kong.

105.* Her Majesty's Minister in China or in Japan, the Judge or Assistant Judge of the Supreme Court, and any of Her Majesty's Consular Officers in China or in Japan, or the Governor or person administering the Government of Hong Kong, on receiving satisfactory information that any soldier, sailor, marine, or other person belonging to any of Her Majesty's military or naval forces, has deserted therefrom, and has concealed himself in any British, Chinese, Japanese, or other such vessel at such a distance as aforesaid, may, in pursuance of such information, issue his warrant for a search after and apprehension of such deserter, and on being satisfied on investigation that any person so apprehended is such a deserter, shall cause him to be with all convenient speed taken and delivered over to the nearest military station of Her Majesty's forces, or to the officer in command of a vessel of war of Her Majesty serving in China or in Japan, as the case may require.

XIII.—Deportation.†

106. (i.) Where it is shown on oath, to the satisfaction of any of Her Majesty's Courts in China or in Japan that there is reasonable ground to apprehend that any British subject in China or in Japan is about to commit a breach of the public peace,—or that

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.
† See also Act 38 and 39 Vict., cap. 85, 13th August, 1875. Page 605.

Majesty's Consular Officers in Japan, until the conclusion of any proceedings taken in respect of the offence.

X.—Piracy.

98. Any British subject being in China or in Japan may be proceeded against, tried, and punished under this Order for the crime of piracy wherever committed.

99.* If the Court before which a British subject charged with the crime of piracy is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

XI.—Offences against Religion.

100. If any British subject is guilty of publicly deriding, mocking, or insulting any religion established or observed in China or in Japan,—or of publicly offering any insult to any religious service, feast, or ceremony established or kept in any part of China or in Japan, or to any place of worship, tomb, or sanctuary belonging to any such religion, or to the ministers or professors thereof,—or of wilfully committing any act tending to bring any such religion, or its ceremonies, mode of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace,—he shall be liable (in the discretion of the Court before which he is convicted) to imprisonment for any term not exceeding two years, with or without hard labour, and with or without a fine not exceeding 500 dollars, or to a fine not exceeding 500 dollars, without imprisonment.

Notwithstanding anything in this Order, every charge against a British subject of having committed any such offence shall be heard and determined in a summary way, and any Provincial Court shall have power to impose the punishment aforesaid.

Her Majesty's Consular Officers shall take such precautionary measures as seem to them proper and expedient for the prevention of such offences.

XII.—Authority within 100 Miles of Coast of China.†

101. Where a British subject, being after the commencement of this Order in China or in Japan, is charged with having committed, either before or after the commencement of this Order, any crime or offence within a British vessel at a distance of not more than 100 miles from the coast of China,—or within a Chinese

* Applied to Japan by Order in Council of 14th August, 1878 Page 610.
† See Act of Parliament, 16th August, 1878. Page 616

or Japanese vessel at such a distance as aforesaid,—or within a vessel not lawfully entitled to claim the protection of the flag of any State, at such a distance as aforesaid,—any of Her Majesty's Courts in China or in Japan within the jurisdiction whereof he is found may cause him to be apprehended and brought before it, and may take the preliminary examination and commit him for trial.

102.* If the Court before which the accused is brought is a Provincial Court, the Court shall report to the Judge of the Supreme Court the pendency of the case.

The Judge of the Supreme Court shall thereupon direct in what mode, and where the case shall be heard and determined, and (notwithstanding anything in this Order) the case shall be so heard and determined accordingly.

103. The provisions of this Order relative to crimes and offences, and proceedings in criminal matters, shall in all respects, as far as may be, extend and apply to every such case, in like manner as if the crime or offence had been committed in China or Japan.

104. Where a British subject, being after the commencement of this Order in Hong Kong, is charged with having committed, either before or after the commencement of this Order, any crime or offence within any British, Chinese, Japanese, or other such vessel at such a distance as aforesaid, the Supreme Court at Hong Kong shall have and may exercise authority and jurisdiction with respect to the crime and offence as fully as if it had been committed in Hong Kong.

105.* Her Majesty's Minister in China or in Japan, the Judge or Assistant Judge of the Supreme Court, and any of Her Majesty's Consular Officers in China or in Japan, or the Governor or person administering the Government of Hong Kong, on receiving satisfactory information that any soldier, sailor, marine, or other person belonging to any of Her Majesty's military or naval forces, has deserted therefrom, and has concealed himself in any British, Chinese, Japanese, or other such vessel at such a distance as aforesaid, may, in pursuance of such information, issue his warrant for a search after and apprehension of such deserter, and on being satisfied on investigation that any person so apprehended is such a deserter, shall cause him to be with all convenient speed taken and delivered over to the nearest military station of Her Majesty's forces, or to the officer in command of a vessel of war of Her Majesty serving in China or in Japan, as the case may require.

XIII.—Deportation.†

106. (i.) Where it is shown on oath, to the satisfaction of any of Her Majesty's Courts in China or in Japan that there is reasonable ground to apprehend that any British subject in China or in Japan is about to commit a breach of the public peace,—or that

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.
† See also Act 38 and 39 Vict., cap. 85, 13th August, 1875. Page 605.

the acts or conduct of any British subject in China or in Japan are or is likely to produce or excite to a breach of the public peace, —the Court within the jurisdiction whereof he happens to be may cause him to be brought before it and require him to give security to the satisfaction of the Court, to keep the peace, or for his future good behaviour, as the case may require:

(ii.) Where any British subject is convicted, under this Order, of any crime or offence, the Court within the jurisdiction whereof he happens to be may require him to give security to the satisfaction of the Court for his future good behaviour:

In either of these cases, if the person required to give security fails to do so, the Court may order that he be deported from China or Japan to such place as the Court directs.

107. In any case where an order of deportation is made under this Order, the Court shall not, without the consent of the person to be deported, direct the deportation of any person to any place other than Hong Kong or England.

108.* A Provincial Court shall forthwith report to the Judge of the Supreme Court any order of deportation made by it, and the grounds thereof.

The Judge of the Supreme Court may reverse the order, or may confirm it with or without variation, and in case of confirmation, shall direct it to be carried into effect.

109.* The person to be deported shall be detained in custody until a fit time and opportunity for his deportation arrives.

The Judge of the Supreme Court shall then (and in the case of a person convicted, either after execution of the sentence or while it is in course of execution), by warrant cause him to be taken to the place of deportation.

110.* The Judge of the Supreme Court may order that the person to be deported do pay all or any part of the expenses of or preliminary to his deportation.

111.* The Judge of the Supreme Court shall forthwith report to one of Her Majesty's Principal Secretaries of State any order of deportation made or confirmed by him and the grounds thereof, and shall also inform Her Majesty's Ministers in China and Japan of the same.

112. Where any person is deported to Hong Kong, he shall on his arrival there be delivered, with the warrant under which he is deported, into the custody of the Chief Magistrate of Police of Hong Kong, or other officer of Her Majesty there lawfully acting as such, who, on receipt of the person deported, with the warrant, shall detain him and shall forthwith report the case to the Governor or person administering the Government of Hong Kong, who shall either by warrant (if the circumstances of the case appear to him to make it expedient) cause the person so deported to be taken to England, and in the meantime to be detained in custody (so that the period of such detention do not exceed three months), or else shall discharge him from custody.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610

113. If any person deported returns to China or Japan without the permission of one of Her Majesty's Principal Secretaries of State, in writing under his hand (which permission the Secretary of State may give), he shall be guilty of an offence against this Order, and shall be liable on conviction thereof to punishment (in the discretion of the Court before which he is convicted) by imprisonment for any term not exceeding one month, with or without hard labour, and with or without a fine not exceeding 200 dollars, or by a fine not exceeding 200 dollars, without imprisonment, and also to be forthwith again deported in manner hereinbefore provided.

XIV.—Registration of British Subjects.*

114. Every British subject resident in China or Japan,—being of the age of 21 years or upwards,—or being married, or a widower or widow, though under that age,—shall, in the month of January in the year 1866, and every subsequent year, register himself or herself in a register to be kept at the Consulate of the Consular district within which he or she resides,—subject to this qualification, that the registration of a man shall be deemed to include the registration of his wife (unless she is living apart from him), and that the registration of the head of a family, whether male or female, shall be deemed to include the registration of all females, being relatives of the head of the family (in whatever degree of relationship), living under the same roof with the head of the family at the time of his or her registration.

Every British subject not so resident arriving at any place in China or Japan where a Consular Officer is maintained, unless borne on the muster roll of a British vessel there arriving, shall within one month after his or her arrival, register himself or herself in a register to be kept at the Consular Office,—but so that no such person shall be required to register himself or herself more than once in any year, reckoned from the 1st day of January.

Any person failing so to register himself or herself, and not excusing his or her failure to the satisfaction of the Consular Officer, shall not be entitled to be recognised or protected as a British subject in China or Japan, and shall be liable to a fine not exceeding ten dollars for each instance of such failure.

115. Every person shall on every registration of himself or herself pay a fee of such amount as one of Her Majesty's Principal Secretaries of State from time to time by order under his hand appoints, such amount either to be uniform for all persons, or to vary according to the circumstances of different classes, as the Secretary of State from time to time by such order directs.

116. The Consular Officer shall issue to every person so registered a certificate of registration under his hand and Consular seal; and the name of a wife (unless she is living apart from her hus-

* Fee, two dollars. See Instructions, 12th September, 1893, in H. T. Vol. 9. Page 160.

band) shall be endorsed on her husband's certificate; and the names and descriptions of females whose registration is included in that of the head of the family shall be endorsed on the certificate of the head of the family.

XV.—Foreigners. Foreign Tribunals.

117.* Where a foreigner desires to institute or take any suit or proceeding of a civil nature against a British subject, the Supreme or other Court, according to its jurisdiction, may entertain the same, and where any such suit or proceeding is entertained shall hear and determine it according to the provisions of this Order and of the rules made under it applicable in the case, either by the Judge, Assistant Judge, Law Secretary, or proper Consular Officer sitting alone (or with Assessors when the case so requires), —or, if (in any case where a trial with a jury may be had under this Order) all parties desire, or the Court thinks fit to direct, a trial with a jury, then, but not otherwise, by the Judge, Assistant Judge, Law Secretary, or proper Consular Officer, with a jury.

118.† Where it is shown to any of Her Majesty's Courts that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Chinese or Japanese Court, or before a Chinese or Japanese judicial officer, or in a Court or before a judicial officer in China or Japan of any State in amity with Her Majesty, the Court may, in cases and under circumstances which would require the attendance of that British subject before one of Her Majesty's Courts in China or Japan, and if it seems to the Court just and expedient so to do, make an order for the attendance of the British subject in such Court or before such judicial officer and for such purpose as aforesaid,—but so that a Provincial Court shall not have power to make an order for such attendance of a British subject at any place beyond the particular jurisdiction of the Court.

Any British subject, duly served with such an order and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly and not excusing his failure to the satisfaction of the Court making the order shall be liable to a fine not exceeding 500 dollars, or to imprisonment for any term not exceeding one month, in the discretion of the Court.

XVI.—Appeal to Supreme Court.

I.—*In Civil Cases.*

119.‡ Where any decision of a Provincial Court, sitting with or without Assessors, is given in a civil case in respect of a sum or

* Applied to Japan by Order in Council of 14th August, 1878, p. 610; but repealed by Order in Council of 25th October, 1881. Page 619.
† Repealed by Order in Council of 25th October, 1881. Page 619.
‡ Applied to Japan by Order in Council of 14th August, 1878. Page 610.

matter at issue of the amount or value of 250 dollars or upwards, —or determines, directly or indirectly, any claim or question respecting property of the amount or value of 250 dollars or upwards,—any party aggrieved by the decision may apply to the Provincial Court for leave to appeal to the Supreme Court, and shall be entitled to leave on the terms prescribed by the rules made under this Order, and subject to any restrictions and exceptions therein contained.

In any other case the Provincial Court may, if it seems just and expedient, give leave to appeal on like terms.

In any case the Supreme Court may give leave to appeal on such terms as seem just.

II.—*In Criminal Cases.*

120.* Where any person is convicted otherwise than in a summary way of a crime or offence, the Court or officer trying the case may, if it seems fit, reserve for the consideration of the Supreme Court any question of law arising on the trial.

The Court or officer shall then state a special case, setting out the question reserved, with the facts and circumstances on which it arose, and shall send the case to the Supreme Court.

121.* Where any person is convicted in a summary way of a crime or offence, and is dissatisfied with the conviction as being erroneous in point of law, the Court or officer trying the case may, on his application in writing, and on compliance by him with any terms prescribed by the rules made under this Order, state a special case, setting out the facts and the grounds of the conviction, for the opinion of the Supreme Court, and send it to that Court.

122.* Where a special case is stated, the Court or officer stating it shall, as seems fit, either postpone judgment on the conviction, or respite execution of the judgment, and either commit the person convicted to prison, or take proper security for him to appear and receive judgment or to render himself in execution (as the case may require) at an appointed time and place.

123.* The Supreme Court shall hear and determine the matter, and thereupon shall reverse, affirm, or amend the judgment, conviction, or sentence in question,—or set aside the same, and order an entry to be made in the minutes of proceedings to the effect that in the judgment of the Supreme Court the person convicted ought not to have been convicted,—or arrest the judgment,—or order judgment to be given at a subsequent sitting of the Court or officer stating the case,—or make such other order as justice requires,—and shall also give all necessary and proper consequential directions.

124.* The judgment of the Supreme Court shall be delivered in open Court after the public hearing of any argument offered on behalf of the prosecution or of the person convicted.

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

125*. Before delivering judgment, the Supreme Court may, if necessary, cause the special case to be amended by the Court or officer stating it.

126.* If on an application for a special case, on a summary conviction, it seems to the Court or officer that the application is merely frivolous, but not otherwise, the Court or officer may refuse to state a case.

A Court or officer so refusing shall forthwith send to the Supreme Court a report of the sentence, with a copy of the minutes of proceedings and notes of evidence, and any observations the Court or officer thinks fit, and with a copy of the application for a special case.

The Supreme Court shall examine the report and documents so sent, and, unless the Supreme Court is of opinion that the application was merely frivolous, shall on the application in that behalf of the appellant, if made within one month after the refusal of a special case, proceed to hear and determine the matter according to the foregoing provisions, as nearly as may be as if a special case had been stated.

XVII.—Rules of Procedure.†

127. The Judge of the Supreme Court may, from time to time, frame rules for any purpose for which it is before in this Order expressed or implied that rules of procedure or practice are to be made, and also for the regulation of procedure and pleading, forms of writs, and other proceedings, expenses of witnesses and prosecutions, costs and fees, in civil and in criminal cases, in the Supreme Court and other Courts, including the regulation of cross-suits and the admission of counter-claims, and the regulation of proceedings thereon, and for the regulation of appeals to the Supreme Court from the other Courts in civil and in criminal cases, and of rehearings before the Judge of the Supreme Court, and may thereby impose reasonable penalties.

Rules affecting the conduct of civil suits shall be so framed as to secure, as far as may be, that cases shall be decided on their merits according to substantial justice without excessive regard to technicalities of pleading or procedure, and without unnecessary delay.

Rules framed by the Judge shall not have effect unless and until they are approved by one of Her Majesty's Principal Secretaries of State—save that in case of urgency declared in any rules framed by the Judge, with the approval of Her Majesty's Minister in China, the same shall have effect, unless and until they are disapproved by one of Her Majesty's Principal Secretaries of State, and notification of such disapproval is received and published by the Judge.

128. A copy of the rules for the time being in force shall be

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.
† See Rules, page 461, and Table of Judicial Fees, 1st October, 1888, p. 634.

kept exhibited conspicuously in each Court and Consulate in China and Japan.

Printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Court from time to time directs.

No penalty shall be enforced in any Court for the breach of any rule until the rule has been so exhibited in the Court for one month.

129. A printed copy of any rule, purporting to be certified under the hand of the Judge of the Supreme Court and the seal of that Court, shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

130. From and after the commencement of any rules made by the Judge of the Supreme Court under this Order, all rules and regulations theretofore made by the Chief Superintendent of Trade in China, or by Her Majesty's Consul-General in Japan, in respect of any matter in respect whereof the Judge of the Supreme Court is by this Order authorised to make rules shall cease to operate.

XVIII.—Appeal to Her Majesty in Council.

131. Where any final decree or order of the Supreme Court is made in a civil case in respect of a sum or matter at issue of the amount or value of 2,500 dollars or upwards—or determines directly or indirectly any claim or question respecting property of the amount or value of 2,500 dollars or upwards—any party aggrieved by the decree or order may within fifteen days after the same is made, apply by motion to the Supreme Court for leave to appeal to Her Majesty in Council.

132. If leave to appeal is applied for by a party adjudged to pay money or perform a duty, the Supreme Court shall direct either that the decree or order appealed from be carried into execution, or that the execution thereof be suspended, pending the appeal, as the Court considers to be in accordance with substantial justice.

133. If the Court directs the decree or order to be carried into execution, the party in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

134. If the Court directs the execution of the decree or order to be suspended during the appeal, the party against whom the decree is made shall, before any order for suspension of execution, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

135. In all cases security shall also be given by the appellant to the satisfaction of the Court to an amount not exceeding 2,500 dollars for the prosecution of the appeal, and for payment of all

such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

136. If the last-mentioned security is given within one month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal.

137. In any case other than the cases hereinbefore described, the Supreme Court may give leave to appeal on the terms and in the manner aforesaid if it considers it just or expedient to do so.

138. In every case where leave to appeal is given as aforesaid, the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from Her Colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

139. Nothing in this Order shall affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the Supreme Court in a civil case, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

140. Where any judgment, order, or sentence of the Supreme Court is given, made, or passed in the exercise of either original or appellate criminal jurisdiction, the party charged with the crime or offence, if he considers the judgment, order, or sentence to be erroneous in point of law, may appeal therefrom to Her Majesty in Council, provided that the Supreme Court declares the case to be a fit one for such appeal and that the appellant complies with such conditions as the Supreme Court establishes or requires, subject always to such rules as from time to time Her Majesty in Council thinks fit to make in that behalf.

XIX.—General Provisions.

141. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

142. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's Consular Officers in China or in Japan from performing any act not of a judicial character, that Her Majesty's Consular Officers there might by law, or by virtue of usage or sufferance, or otherwise, have performed if this Order had not been made.

143. Every of Her Majesty's Consular Officers shall, as far as there is proper opportunity promote reconciliation and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between British subjects in China or in Japan.

144.* Every signature or seal affixed to any instrument purporting to be the signature of the Judge of the Supreme Court, or of any officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts in China or in Japan, shall, for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

145. In every case, civil or criminal, heard in any Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the Judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where Assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the Judge or officer, shall be preserved in the public office of the Court.

146. In a civil case any Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceeding relates

147. Any Court, either of its own motion, or, in civil cases, on the application of any party to any suit or proceeding or reference, may summon as a witness any British subject in China or Japan—but so that a Provincial Court shall have power so to summon British subjects in its own district only.

Any British subject, duly served with such a summons and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly and not excusing his failure to the satisfaction of the Court, shall, over and above any other liability to which he may be subject, be liable to a fine not exceeding 500 dollars, or to imprisonment for any term not exceeding one month, in the discretion of the Court.

148. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties or any of them.

149. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

150. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any reference, shall, on conviction thereof, be deemed guilty of wilful and corrupt perjury.

151. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order, may be levied by distress and seizure and sale of ships, goods, and lands; and no bill of sale, or mortgage,

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

or transfer of property, made with a view to security in regard to crimes or offences committed, or to be committed, shall be of any avail to defeat any provision of this Order.

152. All fees, fines, forfeitures, confiscations, and pecuniary penalties levied under this Order, except confiscations and pecuniary penalties by Treaty appropriated or payable to the Government of China or to that of the Tycoon of Japan, shall be carried to the public account, and be applied in diminution of the public expenditure on account of Her Majesty's Courts in China and Japan; but if the Government of China or that of the Tycoon of Japan declines to receive any confiscation or pecuniary penalty by Treaty appropriated or payable to it, the same shall be applied as other confiscations and pecuniary penalties are applicable.

153.* Whenever under this Order any person is to be taken in custody or otherwise, for trial or imprisonment, or by way of deportation, or for any other purpose, to the Supreme Court or elsewhere in China or Japan, or to Hong Kong, England, or elsewhere, the Court or other authority by this Order authorised to cause him to be so taken, may for that purpose (if necessary) cause him to be embarked on board one of Her Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel, at any port or place whether within or beyond the particular jurisdiction or district of that Court or authority, and in order to such embarkment may (if necessary) cause him to be taken, in custody or otherwise, by land or by water, from any place to the port or place of embarkment.

The writ, order, or warrant of the Supreme Court for China and Japan, or of a Provincial Court in China or Japan, or of the Supreme Court of Hong Kong, or the warrant of the Governor or person administering the Government of Hong Kong (as the case may be), by virtue whereof any person is to be so taken, shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel or the commander or master thereof, is named therein or not), to receive, detain, take, and deliver up such person, according to the writ, order, or warrant.

Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates is embarked.

Where the writ, order, or warrant issues from the Supreme Court for China and Japan, and is executed by a Provincial Court in China or Japan,—and where the writ, order, or warrant issues from the Supreme Court of Hong Kong, and is executed by any of Her Majesty's Courts in China or Japan,—a copy thereof certified under the seal of the Court executing the same shall be

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the Order of which it purports to be a copy.

154. Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in China or Japan, or from or to Hong Kong, and the expenses of deportation and of the sending of any person to England, shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's Principal Secretaries of State from time to time directs.

155.* If any British subject wilfully obstructs by act or threat an officer of a Court in the performance of his duty,—

Or within or close to the room or place where a Court is sitting wilfully behaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or the terror of the suitors or others resorting thereto,—

Or wilfully insults the Judge, Assistant Judge, or Law Secretary of the Supreme Court, or any Consular Officer, or any juror or Assessor, or any clerk or officer of a Court, during his sitting or attendance in Court or in going to or returning from Court,—

He shall be liable to be immediately apprehended by order of the Court, and to be detained until the rising of the Court, and further, on due inquiry and consideration, to be punished with a fine not exceeding 25 dollars, or imprisonment for any term not exceeding seven days, at the discretion of the Court, according to the nature and circumstances of the case.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment; and in the case of a Provincial Court, a copy of such minute shall be forthwith sent to the Judge of the Supreme Court.

156. If any clerk or officer of a Court acting under pretence of the process or authority of the Court is charged with extortion, or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punishment to which the clerk or officer would in the absence of the present provision be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such order thereupon for the repayment of any money extorted or for the due payment of any money levied, and for the payment of such damages and costs, as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer, not exceeding 50 dollars for each offence, as seems just.

157. Any suit or proceeding shall not be commenced in any

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

of Her Majesty's Courts in China or Japan, or in any Court in Hong Kong against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any regulation or rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may by leave of the Court at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

XX.—Hong Kong.

158. Where a warrant or order of arrest is issued by any of Her Majesty's Courts in China or Japan for the apprehension of a British subject who is charged with having committed a crime or offence within the jurisdiction of the Court issuing the warrant or order, and who is or is supposed to be in Hong Kong, and the warrant or order is produced to any of Her Majesty's Justices of the Peace in and for Hong Kong, such Justice may back the warrant or order, and the same when so backed shall be sufficient authority to the person to whom the warrant or order was originally directed, and also to any constable or other peace officer in and for Hong Kong, to apprehend the accused in Hong Kong and to carry him to and deliver him up within the jurisdiction of the Court issuing the warrant or order, according to the warrant or order.

159. The Supreme Court of Hong Kong may take cognizance of offences committed by British subjects within the peninsula of Macao, and of suits originating there, when the party offending or the party sued comes or is found within the jurisdiction of that Court; but that Court shall not have power to issue any warrant or writ to be executed or served within that peninsula.

160. Save as expressly provided by this Order, all jurisdiction, power, and authority of the Supreme Court of Hong Kong exerciseable in relation to British subjects resident in or resorting to China or Japan shall from the commencement of this Order absolutely cease.

XXI.—Repeals.

161. From and immediately after the commencement of this Order, the Orders in Council and Consular Ordinances described in

the Schedule to this Order shall be repealed; but this repeal shall not affect the past operation of any such Order or Ordinance, or any appointment made or thing done, or right, title, obligation, or liability acquired or accrued thereunder before the commencement of this Order.

XXII.—Pending Proceedings.

162. Nothing in this Order or in any rules made under it shall apply to or in any manner affect any suit or proceeding, either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein, or with reference to any appeal therein, or otherwise, subject, nevertheless, to the following provisions and qualifications:—

(1.) All suits and proceedings, whether of a civil or of a criminal nature, instituted or taken before the commencement of this Order in the district of the Consulate of Shanghai, and pending at the commencement of this Order, are hereby transferred to the jurisdiction of the Supreme Court, and the same may be carried on and shall be tried, heard, and determined in and by the Supreme Court in like manner as nearly as may be in all respects as if the same had been instituted or taken in the district of the Consulate of Shanghai after the commencement of this Order:

(2.) In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order, after hearing the parties, either of its own motion, or on the application of either party, or by consent, may, if it seems fit, from time to time direct that the procedure and practice prescribed by this Order, or by any rule made under it, be followed in any respect.

163. Nothing in this Order shall take away any right of appeal in any suit of a civil nature pending at the commencement of this Order,—or interfere with the bringing or prosecution of any appeal in any such suit that might have been brought or prosecuted if this Order had not been made,—or take away or abridge any jurisdiction, power, or authority of any Court, Judge, Officer, or person in relation to any appeal in any such suit, or to the execution or enforcement of any judgment, decree or order made before or after the commencement of this Order, in or respecting any appeal in any such suit;—and, notwithstanding this Order, any appeal in any such suit shall lie and may be brought and prosecuted, and any such judgment, decree, or order may be made, executed, and enforced in like manner and with the like effect and consequences in all respects as if this Order had not been made, subject only to this qualification,—that in case of any appeal which, if this Order had not been made, would have lain to or been heard and determined by the Chief Superintendent, or to or by Her Majesty's Consul-General in Japan, the same shall lie to and be heard and determined by the Supreme Court in a like course of procedure as nearly as may be in all respects as if this Order had not been made.

XXIII.—Commencement and Publication of Order.

164. This Order shall commence and have effect as follows:—

(1.) As to the making of any warrant or appointment under this Order,—immediately from and after the making of this Order:

(2.) As to the framing of rules by the Judge of the Supreme Court and the approval thereof by one of Her Majesty's Principal Secretaries of State,—immediately from and after the first appointment under this Order of a Judge of the Supreme Court:

(3.) As to all other matters and provisions comprised and contained in this Order,—immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul at Shanghai; for which purpose Her Majesty's Consul at Shanghai is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and of the time of such first exhibition notice shall, as soon thereafter as practicable, be published in every Consular District in China and Japan, in such manner as Her Majesty's Ministers there respectively direct; and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

165. A copy of this Order shall be kept exhibited conspicuously in each Court and Consulate in China and in Japan.

Printed copies shall be provided and sold at such reasonable price as Her Majesty's Minister in China directs.

And the Right Honourable the Earl Russell, and the Right Honourable Edward Cardwell, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

(L.S.) EDMUND HARRISON.

The Schedule to which the foregoing Order refers.

Orders in Council repealed.

China.	Japan.
9 December, 1833 (Two Orders).	23 January, 1860.
4 January, 1843.	4 February, 1861.
24 February, 1843.	12 September, 1863.
2 October, 1843.	7 January, 1864.
17 April, 1844.	
13 June, 1853.	
2 February, 1857.	
3 March, 1859.	
12 September, 1863.	
9 July, 1864.	

Consular Ordinances repealed.

No. 1. 19 January, 1854. Deserters.
No. 2. 31 March, 1854. Lunatics; Coroner.
No. 1. 17 January, 1855. Neutrality.
No. 1. 5 March, 1856. Insolvents.
No. 2. 29 May, 1856. Removal of prisoners, &c.

(No. 71.) *RULES of Her Britannic Majesty's Supreme Court and other Courts in China and Japan.** *May* 4, 1865.

Framed under the Order of Her Majesty in Council of the 9th day of March, 1865,† by the Judge of Her Majesty's Supreme Court, and

Approved by one of Her Majesty's Principal Secretaries of State.

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* See also Order in Council of 14th August, 1878, page 610; Rules in Criminal Cases, of 7th November, 1878, page 617; Rules respecting Practitioners in Provincial Courts, of 28th March, 1881, page 619, and Table of Fees, 1st October, 1888, page 634.

† See page 424.

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I.—Decision of Questions without Formal Suit.

Questions of Fact.

1. Where the parties between whom a suit might be instituted are agreed as to any question of fact to be determined between them, they may by consent and by order of the Supreme or other Court on summons—which order the Court may make on being satisfied that the parties have a real interest in the determination of such question, and that the same is fit to be tried—proceed to the trial of any question of fact without any petition presented or other pleading.

* See also Rules, 7th November, 1878. Page 617.

2. Such question may be stated for trial in an issue (Form 1), and such issue may be set down for trial, and tried accordingly, as if the question stated were to be determined at the hearing of an ordinary suit.

3. The parties may, if they think fit, enter into an agreement in writing, which shall be embodied in an order of the Court, that on the finding of the Court in the affirmative or negative of such issue, a sum of money, fixed in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other, with or without any costs.

On the finding of the Court in any such issue a decree may be entered for the sum so agreed or ascertained, with or without costs, as the case may be.

4. Where no agreement is entered into as to costs, the costs of the whole proceedings shall be in the discretion of the Court.

5. The issue and proceedings and decree shall be recorded, and the decree shall have the same effect as a decree in a contested suit.

Questions of Law.

6. Where the parties between whom a suit might be instituted are agreed as to any question of law to be determined between them, they may by consent and by order of the Supreme or other Court on summons—which order the Court may make on being satisfied that the parties have a real interest in the determination of such question, and that the same is fit to be determined—state any question of law in a special case for the opinion of the Supreme Court, without any petition presented or other pleading.

Where the case is stated under order of a Provincial Court, the Court shall send the case to the Supreme Court; and the Supreme Court may direct the case to be re-stated or to be amended, or may refuse to determine the same if the facts are not sufficiently stated, or if the question thereon is not properly raised, or if the parties cannot agree on an amended case; and may draw inferences of fact from the facts stated in the case.

7. The parties may, if they think fit, enter into an agreement in writing (which shall be embodied in the order for stating the special case or in some subsequent order) that upon the judgment of the Supreme Court being given in the affirmative or negative of the question of law raised by the special case a sum of money fixed in the agreement or to be ascertained by the Supreme Court, or in such manner as it may direct, shall be paid by one of the parties to the other, with or without any costs.

On the judgment of the Supreme Court, a decree of the Supreme Court or of the Provincial Court under whose order the case was stated (as the case may be) may be entered for the sum so agreed or ascertained, with or without costs, as the case may be.

8. Where no agreement is entered into as to costs, the costs of the whole proceedings shall be in the discretion of the Supreme Court.

9. The special case and proceedings and decree shall be recorded, and the decree shall have the same effect as a decree in a contested suit.

II.—Summary Procedure for Claims under 100 Dollars.

10. Where the claim which any person desires to enforce by proceedings in the Court relates to money, goods, or other property, or any matter at issue, of a less amount or value than 100 dollars —or is for the recovery of damages of a less amount than 100 dollars—proceedings shall be commenced by summons (Form 2) and the suit shall be heard and determined in a summary way.

11. The summons shall issue without application in writing.

It shall be addressed to the defendant or defendants against whom the claim is made.

It shall state briefly and clearly the nature and particulars of the claim and the amount sought to be recovered.

It shall be served on the defendant or defendants within the time and in the manner directed by the Court.

A defendant shall not be bound to attend personally to answer the summons unless required expressly by the summons so to do but he must attend personally if summoned as a witness.

The provisions of these Rules, relative to suits for sums of 100 dollars and upwards, shall be applicable *mutatis mutandis* to suits for sums of less than 100 dollars, and shall be so applied accordingly (except so far as the Court may in any case for the avoiding of delay and the furtherance of substantial justice think fit otherwise to direct) and particularly as to the matters following:

The service of summonses, notices, and orders.

The summoning of witnesses.

The taking of evidence.

The postponement or adjournment of the hearing.

The allowance of costs.

The contents and effect of orders and the enforcement thereof.

The recording of the proceedings.

The mode of appeal.

12. Where either on the application for a summons or before or at the hearing thereof, it appears to the Court (for reasons to be recorded in the minutes of proceedings) that the nature and circumstances of the case render it unjust or inexpedient to hear and determine the claim in a summary way, the Court may direct proceedings to be taken and carried on by petition as in suits for sums of 100 dollars and upwards.

III.—Summary Procedure for Administration of Property of Deceased Persons.

13. Any person claiming to be a creditor or a legatee, or the next of kin, or one of the next of kin, of a deceased person, may apply for and obtain, as of course, without petition filed or other preliminary proceeding, a summons from the Court (Form 3) requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order for the administration of the property of the deceased should not be made.

14. On proof of due service of the summons or on the appearance of the executor or administrator in person or by counsel or attorney, and on proof of such other things (if any) as the Court requires, the Court may, if in its discretion it thinks fit so to do, make an immediate order for the administration of the property of the deceased; and the order so made shall have the force of a decree to the like effect made on the hearing of a cause between the same parties.

The Court shall have full discretionary power to make or refuse such order, or to give any special directions respecting the carriage or execution of it, and in the case of applications for such an order by two or more different persons or classes of persons to grant the same to such one or more of the claimants or classes of claimants as the Court thinks fit.

If the Court thinks fit the carriage of the order may subsequently be given to such person and on such terms as the Court directs.

15. On making such an order or at any time afterwards the Court may, if it thinks fit, make any such further or other order as seems expedient for compelling the executor or administrator to bring into Court for safe custody all or any part of the money, or securities, or other property of the deceased from time to time coming to the hands of the executor or administrator, or such other order as seems expedient for the safe keeping of the property of the deceased, or any part thereof, until it can be duly administered under the direction of the Court for the benefit of all persons interested.

16. If the extreme urgency or other peculiar circumstances of any case appear to the Court so to require, the Court may issue such a summons and make such an order or such orders as aforesaid, and may cause proper proceedings to be taken thereon, of its own motion *ex officio*, or on the information of any officer of the Court, and without any such application by a creditor or legatee, the next of kin, or one of the next of kin, as is before mentioned.

17. The reasons of the Court for making any order under the present provisions shall be recorded in the minutes of proceedings.

IV.—Summary Procedure on Bills of Exchange and Promissory Notes.

18. Suits on bills of exchange or promissory notes, instituted within 6 months after the same become due and payable, may be commenced by summons (Form 4), and may be heard and determined in a summary way as hereinafter is provided.

19. The Court shall, on application within 7 days from the service of the summons, give the defendant leave to defend the suit on his paying into Court the sum indorsed, or on evidence on oath showing to the satisfaction of the Court a good legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court deems sufficient to support the application, and on such terms as to security and other things as to the Court seems fit; and in that case the Court may direct proceedings to be taken and carried on by petition in the ordinary way.

20. If the defendant does not so obtain leave to defend, the plaintiff, on proof of due service of the summons, shall be entitled as of course at any time after the expiration of such 7 days to an immediate absolute decree for any sum not exceeding the sum indorsed on the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court in the decree.

21. After decree the Court may, under special circumstances, set aside the decree, and may, if necessary, set aside execution, and may give leave to defend the suit if it appears to the Court reasonable so to do, and on such terms as to the Court may seem just—the reasons for any such order being recorded in the minutes of proceedings.

22. In any proceedings under the present provisions, it shall be competent to the Court to order the bill or note sought to be proceeded on to be forthwith deposited in the Court, and further to order that all proceedings be stayed until the plaintiff gives security for costs.

23. The holder of a dishonoured bill or note shall have the same remedies for recovery of the expenses incurred in the noting of the same for non-acceptance or non-payment, or incurred otherwise by reason of the dishonour, as he has under the present provisions for recovery of the amount of the bill or note.

24. The holder of a bill or note may, if he thinks fit, obtain one summons under the present provisions against all or any of the parties to the bill or note; and such summons shall be the commencement of a suit or suits against the parties therein named respectively; and all subsequent proceedings against such respective parties shall be carried on, as far as may be, as if separate summonses had issued.

But the summons or its endorsement must set forth the claims against the parties respectively, according to their respective alleged liabilities, with sufficient precision and certainty to enable each defendant to set up any defence on which he individually may desire to rely.

25. An appeal from a Provincial Court to the Supreme Court in respect of any decision, decree, or order given or made in any such suit does not lie, except by special leave.

V.—Suits for Sums of 100 Dollars and upwards.

Petition.

26. Subject to the foregoing provisions, where the claim which any person desires to enforce by proceedings in the Court relates to money, goods, or other property of the amount or value of 100 dollars or upwards—or relates to or involves directly or indirectly a question respecting any matter at issue, of the amount or value of 100 dollars or upwards—or is for the recovery of damages of the amount of 100 dollars or upwards—proceedings shall be commenced by the filing of a petition (Form 5).

27. The petition shall contain a narrative of the material facts, matters, and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief to which the plaintiff may conceive himself entitled, and also for general relief.

The petition must be as brief as may be consistent with a clear statement of the facts on which the prayer is sought to be supported, and with information to the defendant of the nature of the claim set up.

Documents must not be unnecessarily set out in the petition *in hæc verba*, but so much only of them as is pertinent and material may be set out, or the effect and substance of so much only of them as is pertinent and material may be given, without needless prolixity.

Dates and sums shall be expressed in figures and not in words.

The petition may not contain any statement of the mere evidence by which the facts alleged are intended to be proved, and may not contain any argument of law.

The facts material to the establishment of the plaintiff's right to recover shall be alleged positively, briefly, and as clearly as may be, so as to enable the defendant by his answer either to admit or deny any one or more of the material allegations, or else to admit the truth of any or all of the allegations, but to set forth some other substantive matter in his answer, by reason of which he intends to contend that the right of the plaintiff to recover or to

kept exhibited conspicuously in each Court and Consulate in China and Japan.

Printed copies shall be provided and sold at such reasonable price as the Judge of the Supreme Court from time to time directs.

No penalty shall be enforced in any Court for the breach of any rule until the rule has been so exhibited in the Court for one month.

129. A printed copy of any rule, purporting to be certified under the hand of the Judge of the Supreme Court and the seal of that Court, shall be for all purposes conclusive evidence of the due framing, approval, and publication of the contents thereof.

130. From and after the commencement of any rules made by the Judge of the Supreme Court under this Order, all rules and regulations theretofore made by the Chief Superintendent of Trade in China, or by Her Majesty's Consul-General in Japan, in respect of any matter in respect whereof the Judge of the Supreme Court is by this Order authorised to make rules shall cease to operate.

XVIII.—Appeal to Her Majesty in Council.

131. Where any final decree or order of the Supreme Court is made in a civil case in respect of a sum or matter at issue of the amount or value of 2,500 dollars or upwards—or determines directly or indirectly any claim or question respecting property of the amount or value of 2,500 dollars or upwards—any party aggrieved by the decree or order may within fifteen days after the same is made, apply by motion to the Supreme Court for leave to appeal to Her Majesty in Council.

132. If leave to appeal is applied for by a party adjudged to pay money or perform a duty, the Supreme Court shall direct either that the decree or order appealed from be carried into execution, or that the execution thereof be suspended, pending the appeal, as the Court considers to be in accordance with substantial justice.

133. If the Court directs the decree or order to be carried into execution, the party in whose favour it is made shall, before the execution of it, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

134. If the Court directs the execution of the decree or order to be suspended during the appeal, the party against whom the decree is made shall, before any order for suspension of execution, give security to the satisfaction of the Court for the due performance of such order as Her Majesty in Council may think fit to make.

135. In all cases security shall also be given by the appellant to the satisfaction of the Court to an amount not exceeding 2,500 dollars for the prosecution of the appeal, and for payment of all

such costs as may be awarded to any respondent by Her Majesty in Council, or by the Lords of the Judicial Committee of Her Majesty's Privy Council.

136. If the last-mentioned security is given within one month from the filing of the motion-paper for leave to appeal, then, and not otherwise, the Supreme Court shall give leave to appeal.

137. In any case other than the cases hereinbefore described, the Supreme Court may give leave to appeal on the terms and in the manner aforesaid if it considers it just or expedient to do so.

138. In every case where leave to appeal is given as aforesaid, the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council according to the rules for the time being in force respecting appeals to Her Majesty in Council from Her Colonies, or such other rules as Her Majesty in Council from time to time thinks fit to make concerning appeals from the Supreme Court.

139. Nothing in this Order shall affect the right of Her Majesty at any time, on the humble petition of a party aggrieved by a decision of the Supreme Court in a civil case, to admit his appeal thereon on such terms and in such manner as Her Majesty in Council may think fit, and to deal with the decision appealed from in such manner as may be just.

140. Where any judgment, order, or sentence of the Supreme Court is given, made, or passed in the exercise of either original or appellate criminal jurisdiction, the party charged with the crime or offence, if he considers the judgment, order, or sentence to be erroneous in point of law, may appeal therefrom to Her Majesty in Council, provided that the Supreme Court declares the case to be a fit one for such appeal and that the appellant complies with such conditions as the Supreme Court establishes or requires, subject always to such rules as from time to time Her Majesty in Council thinks fit to make in that behalf.

XIX.—General Provisions.

141. Nothing in this Order shall be deemed to affect Her Majesty's prerogative of pardon.

142. Except as in this Order expressly provided, nothing in this Order shall preclude any of Her Majesty's Consular Officers in China or in Japan from performing any act not of a judicial character, that Her Majesty's Consular Officers there might by law, or by virtue of usage or sufferance, or otherwise, have performed if this Order had not been made.

143. Every of Her Majesty's Consular Officers shall, as far as there is proper opportunity, promote reconciliation and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between British subjects in China or in Japan.

144.* Every signature or seal affixed to any instrument purporting to be the signature of the Judge of the Supreme Court, or of any officer or person acting under this Order, or to be the seal of any of Her Majesty's Courts in China or in Japan, shall, for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

145. In every case, civil or criminal, heard in any Court, proper minutes of the proceedings shall be drawn up, and shall be signed by the Judge or officer before whom the proceedings are taken, and sealed with the seal of the Court, and shall, where Assessors are present, be open for their inspection and for their signature if concurred in by them.

The minutes, with depositions of witnesses and notes of evidence taken at the trial by the Judge or officer, shall be preserved in the public office of the Court.

146. In a civil case any Court may order such costs, or costs, charges, and expenses, as to the Court seem reasonable, to be paid by any party to the proceedings, or out of any fund to which the proceeding relates

147. Any Court, either of its own motion, or, in civil cases, on the application of any party to any suit or proceeding or reference, may summon as a witness any British subject in China or Japan—but so that a Provincial Court shall have power so to summon British subjects in its own district only.

Any British subject, duly served with such a summons and with reasonable notice of the time and place at which his attendance is required, failing to attend accordingly and not excusing his failure to the satisfaction of the Court, shall, over and above any other liability to which he may be subject, be liable to a fine not exceeding 500 dollars, or to imprisonment for any term not exceeding one month, in the discretion of the Court.

148. In civil cases any Court may, where the circumstances appear to justify it, order that the expenses of a witness, on his appearing to give evidence, shall be defrayed by the parties or any of them.

149. Any person appearing before a Court to give evidence in any case, civil or criminal, may be examined or give evidence on oath in the form or with the ceremony that he declares to be binding on his conscience.

150. Any British subject wilfully giving false evidence in any suit or proceeding, civil or criminal, or on any reference, shall, on conviction thereof, be deemed guilty of wilful and corrupt perjury.

151. All costs and all charges and expenses of witnesses, prosecutions, punishments, and deportations, and other charges and expenses, and all fees, fines, forfeitures, and pecuniary penalties payable under this Order, may be levied by distress and seizure and sale of ships, goods, and lands; and no bill of sale, or mortgage,

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

or transfer of property, made with a view to security in regard to crimes or offences committed, or to be committed, shall be of any avail to defeat any provision of this Order.

152. All fees, fines, forfeitures, confiscations, and pecuniary penalties levied under this Order, except confiscations and pecuniary penalties by Treaty appropriated or payable to the Government of China or to that of the Tycoon of Japan, shall be carried to the public account, and be applied in diminution of the public expenditure on account of Her Majesty's Courts in China and Japan; but if the Government of China or that of the Tycoon of Japan declines to receive any confiscation or pecuniary penalty by Treaty appropriated or payable to it, the same shall be applied as other confiscations and pecuniary penalties are applicable.

153.* Whenever under this Order any person is to be taken in custody or otherwise, for trial or imprisonment, or by way of deportation, or for any other purpose, to the Supreme Court or elsewhere in China or Japan, or to Hong Kong, England, or elsewhere, the Court or other authority by this Order authorised to cause him to be so taken, may for that purpose (if necessary) cause him to be embarked on board one of Her Majesty's vessels of war, or if there is no such vessel available, then on board any British or other fit vessel, at any port or place whether within or beyond the particular jurisdiction or district of that Court or authority, and in order to such embarkment may (if necessary) cause him to be taken, in custody or otherwise, by land or by water, from any place to the port or place of embarkment.

The writ, order, or warrant of the Supreme Court for China and Japan, or of a Provincial Court in China or Japan, or of the Supreme Court of Hong Kong, or the warrant of the Governor or person administering the Government of Hong Kong (as the case may be), by virtue whereof any person is to be so taken, shall be sufficient authority to every constable, officer, or other person acting thereunder, and to the commander or master of any vessel of war, or other vessel (whether the constable, officer, or other person, or the vessel or the commander or master thereof, is named therein or not), to receive, detain, take, and deliver up such person, according to the writ, order, or warrant.

Where the writ, order, or warrant is executed under the immediate direction of the Court or authority issuing it, the writ, order, or warrant shall be delivered to the constable, officer, or other person acting thereunder, and a duplicate thereof shall be delivered to the commander or master of any vessel in which the person to whom the writ, order, or warrant relates is embarked.

Where the writ, order, or warrant issues from the Supreme Court for China and Japan, and is executed by a Provincial Court in China or Japan,—and where the writ, order, or warrant issues from the Supreme Court of Hong Kong, and is executed by any of Her Majesty's Courts in China or Japan,—a copy thereof certified under the seal of the Court executing the same shall be

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

delivered to the constable, officer, or other person acting thereunder, and to the commander or master of any vessel in which the person taken is embarked; and any such copy shall be for all purposes conclusive evidence of the Order of which it purports to be a copy.

154. Subject to the other provisions of this Order, all expenses of removal of prisoners and others from or to any place in China or Japan, or from or to Hong Kong, and the expenses of deportation and of the sending of any person to England, shall be defrayed as the expenses relating to distressed British subjects are defrayed, or in such other manner as one of Her Majesty's Principal Secretaries of State from time to time directs.

155.* If any British subject wilfully obstructs by act or threat an officer of a Court in the performance of his duty,—

Or within or close to the room or place where a Court is sitting wilfully behaves in a violent, threatening, or disrespectful manner, to the disturbance of the Court, or the terror of the suitors or others resorting thereto,—

Or wilfully insults the Judge, Assistant Judge, or Law Secretary of the Supreme Court, or any Consular Officer, or any juror or Assessor, or any clerk or officer of a Court, during his sitting or attendance in Court or in going to or returning from Court,—

He shall be liable to be immediately apprehended by order of the Court, and to be detained until the rising of the Court, and further, on due inquiry and consideration, to be punished with a fine not exceeding 25 dollars, or imprisonment for any term not exceeding seven days, at the discretion of the Court, according to the nature and circumstances of the case.

A minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment; and in the case of a Provincial Court, a copy of such minute shall be forthwith sent to the Judge of the Supreme Court.

156. If any clerk or officer of a Court acting under pretence of the process or authority of the Court is charged with extortion, or with not duly paying any money levied, or with other misconduct, the Court may (without prejudice to any other liability or punishment to which the clerk or officer would in the absence of the present provision be liable) inquire into the charge in a summary way, and for that purpose summon and enforce the attendance of all necessary persons in like manner as the attendance of witnesses and others may be enforced in a suit, and may make such order thereupon for the repayment of any money extorted or for the due payment of any money levied, and for the payment of such damages and costs, as the Court thinks just; and the Court may also, if it thinks fit, impose such fine upon the clerk or officer, not exceeding 50 dollars for each offence, as seems just.

157. Any suit or proceeding shall not be commenced in any

* Applied to Japan by Order in Council of 14th August, 1878. Page 610.

of Her Majesty's Courts in China or Japan, or in any Court in Hong Kong against any person for anything done or omitted in pursuance or execution or intended execution of this Order, or of any regulation or rule made under it, unless notice in writing is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the suit or proceeding, nor unless it is commenced within three months next after the act or omission complained of, or in case of a continuation of damage within three months next after the doing of such damage has ceased.

The plaintiff in any such suit shall not succeed if tender of sufficient amends is made by the defendant before the commencement thereof; and if no tender is made the defendant may by leave of the Court at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary suit.

XX.—Hong Kong.

158. Where a warrant or order of arrest is issued by any of Her Majesty's Courts in China or Japan for the apprehension of a British subject who is charged with having committed a crime or offence within the jurisdiction of the Court issuing the warrant or order, and who is or is supposed to be in Hong Kong, and the warrant or order is produced to any of Her Majesty's Justices of the Peace in and for Hong Kong, such Justice may back the warrant or order, and the same when so backed shall be sufficient authority to the person to whom the warrant or order was originally directed, and also to any constable or other peace officer in and for Hong Kong, to apprehend the accused in Hong Kong and to carry him to and deliver him up within the jurisdiction of the Court issuing the warrant or order, according to the warrant or order.

159. The Supreme Court of Hong Kong may take cognizance of offences committed by British subjects within the peninsula of Macao, and of suits originating there, when the party offending or the party sued comes or is found within the jurisdiction of that Court; but that Court shall not have power to issue any warrant or writ to be executed or served within that peninsula.

160. Save as expressly provided by this Order, all jurisdiction, power, and authority of the Supreme Court of Hong Kong exercisable in relation to British subjects resident in or resorting to China or Japan shall from the commencement of this Order absolutely cease.

XXI.—Repeals.

161. From and immediately after the commencement of this Order, the Orders in Council and Consular Ordinances described in

the Schedule to this Order shall be repealed; but this repeal shall not affect the past operation of any such Order or Ordinance, or any appointment made or thing done, or right, title, obligation, or liability acquired or accrued thereunder before the commencement of this Order.

XXII.—Pending Proceedings.

162. Nothing in this Order or in any rules made under it shall apply to or in any manner affect any suit or proceeding, either of a civil or of a criminal nature, pending at the commencement of this Order, either with reference to the original proceedings therein, or with reference to any appeal therein, or otherwise, subject, nevertheless, to the following provisions and qualifications:—

(1.) All suits and proceedings, whether of a civil or of a criminal nature, instituted or taken before the commencement of this Order in the district of the Consulate of Shanghai, and pending at the commencement of this Order, are hereby transferred to the jurisdiction of the Supreme Court, and the same may be carried on and shall be tried, heard, and determined in and by the Supreme Court in like manner as nearly as may be in all respects as if the same had been instituted or taken in the district of the Consulate of Shanghai after the commencement of this Order:

(2.) In any suit or proceeding, whether of a civil or of a criminal nature, the Court before which the same is pending at the commencement of this Order, after hearing the parties, either of its own motion, or on the application of either party, or by consent, may, if it seems fit, from time to time direct that the procedure and practice prescribed by this Order, or by any rule made under it, be followed in any respect.

163. Nothing in this Order shall take away any right of appeal in any suit of a civil nature pending at the commencement of this Order,—or interfere with the bringing or prosecution of any appeal in any such suit that might have been brought or prosecuted if this Order had not been made,—or take away or abridge any jurisdiction, power, or authority of any Court, Judge, Officer, or person in relation to any appeal in any such suit, or to the execution or enforcement of any judgment, decree or order made before or after the commencement of this Order, in or respecting any appeal in any such suit;—and, notwithstanding this Order, any appeal in any such suit shall lie and may be brought and prosecuted, and any such judgment, decree, or order may be made, executed, and enforced in like manner and with the like effect and consequences in all respects as if this Order had not been made, subject only to this qualification,—that in case of any appeal which, if this Order had not been made, would have lain to or been heard and determined by the Chief Superintendent, or to or by Her Majesty's Consul-General in Japan, the same shall lie to and be heard and determined by the Supreme Court in a like course of procedure as nearly as may be in all respects as if this Order had not been made.

XXIII.—Commencement and Publication of Order.

164. This Order shall commence and have effect as follows:—

(1.) As to the making of any warrant or appointment under this Order,—immediately from and after the making of this Order:

(2.) As to the framing of rules by the Judge of the Supreme Court and the approval thereof by one of Her Majesty's Principal Secretaries of State,—immediately from and after the first appointment under this Order of a Judge of the Supreme Court:

(3.) As to all other matters and provisions comprised and contained in this Order,—immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul at Shanghai; for which purpose Her Majesty's Consul at Shanghai is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and of the time of such first exhibition notice shall, as soon thereafter as practicable, be published in every Consular District in China and Japan, in such manner as Her Majesty's Ministers there respectively direct;

and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

165. A copy of this Order shall be kept exhibited conspicuously in each Court and Consulate in China and in Japan.

Printed copies shall be provided and sold at such reasonable price as Her Majesty's Minister in China directs.

And the Right Honourable the Earl Russell, and the Right Honourable Edward Cardwell, two of Her Majesty's Principal Secretaries of State, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

(L.S.) EDMUND HARRISON.

The Schedule to which the foregoing Order refers.

Orders in Council repealed.

China.	Japan.
9 December, 1833 (Two Orders).	23 January, 1860.
4 January, 1843.	4 February, 1861.
24 February, 1843.	12 September, 1863.
2 October, 1843.	7 January, 1864.
17 April, 1844.	
13 June, 1853.	
2 February, 1857.	
3 March, 1859.	
12 September, 1863.	
9 July, 1864.	

Consular Ordinances repealed.

No. 1. 19 January, 1854. Deserters.
No. 2. 31 March, 1854. Lunatics; Coroner.
No. 1. 17 January, 1855. Neutrality.
No. 1. 5 March, 1856. Insolvents.
No. 2. 29 May, 1856. Removal of prisoners, &c.

(No. 71.) *RULES of Her Britannic Majesty's Supreme Court and other Courts in China and Japan.** *May* 4, 1865.

Framed under the Order of Her Majesty in Council of the 9th day of March, 1865,† by the Judge of Her Majesty's Supreme Court, and

Approved by one of Her Majesty's Principal Secretaries of State.

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* See also Order in Council of 14th August, 1878, page 610; Rules in Criminal Cases, of 7th November, 1878, page 617; Rules respecting Practitioners in Provincial Courts, of 28th March, 1881, page 619, and Table of Fees, 1st October, 1883, page 634.

† See page 434.

III.—Summary Procedure for Administration of Property of Deceased Persons.

13. Any person claiming to be a creditor or a legatee, or the next of kin, or one of the next of kin, of a deceased person, may apply for and obtain, as of course, without petition filed or other preliminary proceeding, a summons from the Court (Form 3) requiring the executor or administrator (as the case may be) of the deceased to attend before the Court and show cause why an order for the administration of the property of the deceased should not be made.

14. On proof of due service of the summons or on the appearance of the executor or administrator in person or by counsel or attorney, and on proof of such other things (if any) as the Court requires, the Court may, if in its discretion it thinks fit so to do, make an immediate order for the administration of the property of the deceased; and the order so made shall have the force of a decree to the like effect made on the hearing of a cause between the same parties.

The Court shall have full discretionary power to make or refuse such order, or to give any special directions respecting the carriage or execution of it, and in the case of applications for such an order by two or more different persons or classes of persons to grant the same to such one or more of the claimants or classes of claimants as the Court thinks fit.

If the Court thinks fit the carriage of the order may subsequently be given to such person and on such terms as the Court directs.

15. On making such an order or at any time afterwards the Court may, if it thinks fit, make any such further or other order as seems expedient for compelling the executor or administrator to bring into Court for safe custody all or any part of the money, or securities, or other property of the deceased from time to time coming to the hands of the executor or administrator, or such other order as seems expedient for the safe keeping of the property of the deceased, or any part thereof, until it can be duly administered under the direction of the Court for the benefit of all persons interested.

16. If the extreme urgency or other peculiar circumstances of any case appear to the Court so to require, the Court may issue such a summons and make such an order or such orders as aforesaid, and may cause proper proceedings to be taken thereon, of its own motion *ex officio*, or on the information of any officer of the Court, and without any such application by a creditor or legatee, the next of kin, or one of the next of kin, as is before mentioned.

17. The reasons of the Court for making any order under the present provisions shall be recorded in the minutes of proceedings.

IV.—Summary Procedure on Bills of Exchange and Promissory Notes.

18. Suits on bills of exchange or promissory notes, instituted within 6 months after the same become due and payable, may be commenced by summons (Form 4), and may be heard and determined in a summary way as hereinafter is provided.

19. The Court shall, on application within 7 days from the service of the summons, give the defendant leave to defend the suit on his paying into Court the sum indorsed, or on evidence on oath showing to the satisfaction of the Court a good legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court deems sufficient to support the application, and on such terms as to security and other things as to the Court seems fit; and in that case the Court may direct proceedings to be taken and carried on by petition in the ordinary way.

20. If the defendant does not so obtain leave to defend, the plaintiff, on proof of due service of the summons, shall be entitled as of course at any time after the expiration of such 7 days to an immediate absolute decree for any sum not exceeding the sum indorsed on the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court in the decree.

21. After decree the Court may, under special circumstances, set aside the decree, and may, if necessary, set aside execution, and may give leave to defend the suit if it appears to the Court reasonable so to do, and on such terms as to the Court may seem just—the reasons for any such order being recorded in the minutes of proceedings.

22. In any proceedings under the present provisions, it shall be competent to the Court to order the bill or note sought to be proceeded on to be forthwith deposited in the Court, and further to order that all proceedings be stayed until the plaintiff gives security for costs.

23. The holder of a dishonoured bill or note shall have the same remedies for recovery of the expenses incurred in the noting of the same for non-acceptance or non-payment, or incurred otherwise by reason of the dishonour, as he has under the present provisions for recovery of the amount of the bill or note.

24. The holder of a bill or note may, if he thinks fit, obtain one summons under the present provisions against all or any of the parties to the bill or note; and such summons shall be the commencement of a suit or suits against the parties therein named respectively; and all subsequent proceedings against such respective parties shall be carried on, as far as may be, as if separate summonses had issued.

But the summons or its endorsement must set forth the claims against the parties respectively, according to their respective alleged liabilities, with sufficient precision and certainty to enable each defendant to set up any defence on which he individually may desire to rely.

25. An appeal from a Provincial Court to the Supreme Court in respect of any decision, decree, or order given or made in any such suit does not lie, except by special leave.

V.—Suits for Sums of 100 Dollars and upwards.

Petition.

26. Subject to the foregoing provisions, where the claim which any person desires to enforce by proceedings in the Court relates to money, goods, or other property of the amount or value of 100 dollars or upwards—or relates to or involves directly or indirectly a question respecting any matter at issue, of the amount or value of 100 dollars or upwards—or is for the recovery of damages of the amount of 100 dollars or upwards —proceedings shall be commenced by the filing of a petition (Form 5).

27. The petition shall contain a narrative of the material facts, matters, and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief to which the plaintiff may conceive himself entitled, and also for general relief.

The petition must be as brief as may be consistent with a clear statement of the facts on which the prayer is sought to be supported, and with information to the defendant of the nature of the claim set up.

Documents must not be unnecessarily set out in the petition *in hæc verba*, but so much only of them as is pertinent and material may be set out, or the effect and substance of so much only of them as is pertinent and material may be given, without needless prolixity.

Dates and sums shall be expressed in figures and not in words.

The petition may not contain any statement of the mere evidence by which the facts alleged are intended to be proved, and may not contain any argument of law.

The facts material to the establishment of the plaintiff's right to recover shall be alleged positively, briefly, and as clearly as may be, so as to enable the defendant by his answer either to admit or deny any one or more of the material allegations, or else to admit the truth of any or all of the allegations, but to set forth some other substantive matter in his answer, by reason of which he intends to contend that the right of the plaintiff to recover or to

108. Where an order is made *ex parte*, a certified copy of the affidavit or deposition on which the order is granted must be served on the party affected by the order, together with the order.

109. Where in any suit or matter a decree or order directs any person to pay money or do any other act, the same or some subsequent decree or order shall state the precise time within which the payment or other act is to be made or done, reckoned from the date or from the service of the decree or order in which the time is stated, or from some other point of time, as seems fit.

110. A decree or order may direct the payment to be made, or act to be done, immediately after service of the decree or order, if, under special circumstances, the Court thinks fit so to direct.

111. Where the decree or order is one directing payment of money, there shall be indorsed on the copy of it served on the person requiring to obey it, a memorandum in the words or to the effect following:

"If you, the within-named A.B., neglect to obey this decree [*or* order] by the time therein limited, you will be liable to have a writ of execution issued against your goods, under which they may be seized and sold, and will also be liable to be summoned by the Court, and to be examined as to your ability to make the payment directed by this decree [*or* order], and to be imprisoned in case of your not answering satisfactorily."

112. Where the decree or order is one directing some act to be done other than payment of money, there shall be endorsed on the copy of it served on the person required to obey it a memorandum in the words or to the effect following:

"If you, the within-named A.B., neglect to obey this decree [*or* order] within the time named therein, you will be liable to be arrested under a warrant issued by the Court, and will also be liable to have your property sequestered, for the purpose of compelling you to obey this decree [*or* order]."

113. A decree or order may direct that money directed to be paid by any person be paid by such instalments as the Court thinks fit.

114. All money directed by any decree or order to be paid by any person shall be paid into Court in the suit or matter, unless the Court otherwise directs.

115. Every person not being a party to any suit, who obtains an order, or in whose favour an order is made, is entitled to enforce obedience thereto by the same process as if he were a party to the suit.

And every person not being a party to any suit against whom obedience to any order may be enforced is liable to the same process for enforcing obedience to such order as if he were a party to the suit.

Execution of Decrees and Orders.

116. A person directed by a decree or order to pay money, or do any other act, is bound to obey the decree or order on being

duly served with it, and without any demand for payment or performance.

117. Where the decree or order is one directing payment of money, and the person directed to make payment refuses or neglects to do so according to the exigency of the decree or order, the person prosecuting the decree or order shall be entitled to apply to the Court for execution against the goods of the disobedient person.

118. Where a decree or order directs payment of money by instalments, execution shall not issue until after default in payment of some instalments according to the order; and execution, or successive executions, may then issue for the whole of the money and costs then remaining unpaid, or for such portion thereof as the Court orders either at the time of making the original decree or order or at any subsequent time.

Stay of Execution.

119. The Court may, if under the circumstances of any case it thinks fit, on the application of a defendant, and on such terms as seem just, stay execution of a decree or order pending a suit in the same or any other Court in which that defendant is plaintiff and the person who has obtained such decree or order is defendant.

Seizure and Sale of Goods.

120. The Court shall, unless it sees good reason to the contrary, on the application of the persons prosecuting the decree or order, issue under the seal of the Court a warrant of execution, directed to a proper officer, who shall be thereby empowered to levy the money ordered to be paid (with the costs of execution) by distress and sale of the goods of the disobedient person, wheresoever found within the particular jurisdiction.

121. The officer executing the warrant may by virtue thereof seize any of the goods of the person against whom execution issues (except the wearing apparel and bedding of himself or his family, and the tools or implements of his trade, to the value of 25 dollars, which shall to that extent be protected from seizure), and may also seize any money, bank notes, cheques, bills of exchange, promissory notes, bonds, or securities for money belonging to him.

122. The Court shall hold any cheques, bills of exchange, promissory notes, bonds, or securities for moneys so seized as security for the amount directed to be levied by the execution, or so much thereof as is not otherwise levied, for the benefit of the person prosecuting the decree or order, who may sue in the name of the person against whom execution issues, or in the name of any person in whose name he might have sued, for the recovery of the money secured or made payable thereby, when the time of payment arrives.

123. The sale of goods seized in execution shall be conducted under the order of the Court, and by a person nominated by the Court, but no steps shall be taken therein without the demand of the person prosecuting the decree or order, who shall be liable for any damage that ensues from any irregularity, or from any improper or illegal proceeding taken at his instance.

124. The Court shall not order any goods to be sold unless satisfied, *primâ facie*, that they belong to the person against whom execution issued, and are in a place where the Court has the right to exercise jurisdiction.

Where a claim is made by a third party to goods seized in execution, the same, if made by a British subject, shall be decided by the Court on summons and in a summary way, as between the claimant and the person prosecuting the decree or order.

If the claim is made by a foreigner, the Court shall either oblige the person prosecuting the decree or order to establish his claim before selling the goods, or allow him to sell the goods and defend any claim, as appears just.

125. A sale of goods seized in execution shall not be made until after the end of 5 days at least next following the day of seizure, unless the goods are of a perishable nature, or on the request in writing of the person whose goods have been seized; and until sale the goods shall be deposited by the officer in some fit place, or they may remain in the custody of a fit person approved by the Court and put in possession by the officer.

126. Every warrant of execution shall be returned by the officer, who shall certify thereon how it has been executed.

127. In or on every warrant of execution the Court shall cause to be inserted or indorsed the sum of money and costs adjudged, with the sums allowed as increased costs for the execution of the warrant; and if the person against whose goods execution is issued before actual sale of the goods, pays or causes to be paid into Court, or to the officer holding the warrant, the sum of money and costs adjudged, or such part thereof as the person entitled thereto agrees to accept in full satisfaction thereof, together with all fees, the execution shall be superseded and the goods seized shall be discharged and set at liberty.

128. In case any officer of the Court employed to levy any execution by neglect, connivance, or omission loses the opportunity of levying the same, then on complaint of the person aggrieved, and on the fact alleged being proved on oath to the satisfaction of the Court, the Court may order the officer to pay such damages as the person complaining appears to have sustained thereby, not exceeding in any case the sum of money for which the execution issued; and the officer shall be liable thereto; and on demand made thereof, and on his refusal to pay the same, payment thereof shall be enforced as any decree or order of the Court directing the payment of money.

Summons to Judgment Debtor.

129. Where a decree or order directing payment of money remains wholly or in part unsatisfied (whether a warrant or execution has issued or not), the person prosecuting the decree or order may apply to the Court for a summons, requiring the person by whom payment is directed to be made to appear and be examined respecting his ability to make the payment directed, and the Court shall, unless it sees good reason to the contrary, issue such a summons.

130. On the appearance of the person against whom the summons is issued, he may be examined on oath by or on behalf of the person prosecuting the decree or order, and by the Court, respecting his ability to pay the money directed to be paid, and for the discovery of property applicable to such payment, and as to the disposal which he may have made of any property.

He shall be bound to produce on oath or otherwise all books, papers, and documents in his possession or power relating to property applicable to such payment.

He may be examined as to the circumstances under which he contracted the debt or incurred the liability in respect of which the payment of money is by the decree or order directed to be made, and as to the means or expectation he then had of paying the debt or discharging the liability.

He shall be bound to sign his examination when reduced into writing.

Whether the person summoned appears or not, the person prosecuting the decree or order, and all other witnesses whom the Court thinks requisite, may be examined on oath or otherwise respecting the matters aforesaid.

The Court may, if it thinks fit, adjourn the hearing of the summons from time to time, and require from the person summoned such security for his appearance at the adjourned hearing as seems fit, and in default of his finding security, may, by warrant, commit him to prison, there to remain until the adjourned hearing, unless sooner discharged.

131. In any of the following cases:—

(i.) If it appears to the Court by the examination of the person summoned, or other evidence, that he then has or since the making of the decree or order has had sufficient means to pay the money directed to be paid by him, and he refuses or neglects to pay the same according to the decree or order, or

(ii.) That, with intent to defraud his creditors, or any of them, he has made or suffered any gift, delivery, or transfer of any property, or charged, removed, or concealed any property; or

(iii.) That the debt or liability in question was contracted or incurred by him, by or by reason of fraud, or false pretence, or breach of trust, committed by him; or

(iv.) That forbearance thereof was obtained by him by fraud or false pretence, or

(v.) That the debt or liability was wilfully contracted or incurred by him without his having had at the same time a reasonable expectation of being able to pay or discharge it; or

(vi.) Was contracted or incurred by him by reason of any prosecution or proceeding wherein he was found guilty of any crime or offence, or by reason of any proceeding for libel, slander, assault, battery, adultery, seduction, breach of promise of marriage, malicious arrest, malicious or frivolous and vexatious prosecution, malicious trespass, malicious injury, or the malicious filing or prosecution of a petition for adjudication of insolvency or bankruptcy,—

then and in any such case the Court may, if it thinks fit, order that the person summoned be committed to prison for any time not exceeding 40 days, and may issue a warrant for his commitment accordingly.

132. In places where there is no British prison, or no other place for the detention of a debtor in custody except the prison of the Chinese or Japanese authorities, the Court shall not commit the debtor if it appears that the last-mentioned prison is unfit, regard being had to the requirements of health and decency, for the confinement of a British subject under civil process.

133. The expenses of the debtor's maintenance in prison must be defrayed in the first instance by the person prosecuting the decree or order, and may be recovered by him in such a manner as the Court directs.

Such expenses shall be estimated by the Court, and shall be paid at such times and in such manner as the Court directs.

In default of payment the debtor may be discharged if the Court thinks fit.

134. Imprisonment under such a warrant does not operate as a satisfaction or extinguishment of the debt or liability to which the decree or order relates, or protect the person imprisoned from being anew summoned and imprisoned for any new fraud or other default rendering him liable to be imprisoned, or deprive the person prosecuting the decree or order of any right to have execution against his goods, as if there had not been such imprisonment.

135. Any person so imprisoned, who pays the money by the decree or order directed to be paid, or the instalments thereof payable, and costs remaining due at the time of his commitment, and all subsequent costs and expenses, shall be discharged out of custody.

136. On the hearing of any such summons as aforesaid, the Court, if it thinks fit, whether it make any order for the commitment of the person summoned or not, may rescind or alter any decree or order previously made against him for the payment of money by instalments or otherwise, and make any further or other order, either for the payment of the whole thereof, forthwith, or by any instalments, or in any other manner as the Court thinks reasonable and just.

Execution out of Jurisdiction.

137. Ordinarily a warrant of execution or commitment shall not be executed out of the particular jurisdiction except under an order made for that purpose, on the request of the Court issuing the warrant, by the Court within whose jurisdiction it is to be executed, which Court may take such steps as if it had originally issued the warrant, but shall ultimately send any money produced by the execution or the person apprehended (as the case may be) to the Court from which the warrant issued, to be there dealt with according to law.

But where the urgency or other peculiar circumstances of the case appear to the Court issuing the warrant so to require, the Court (for reasons to be recorded in the minutes of proceedings) may order it to be executed out of the particular jurisdiction, and it may be so executed accordingly.

Arrest.

138. Where the decree or order is one directing some act to be done other than payment of money, and the person directed to do the act refuses or neglects to do it according to the exigency of the decree or order, the person prosecuting the decree or order shall be entitled to apply to the Court for a warrant of arrest against the disobedient person.

139. The Court shall, unless it sees good reason to the contrary, on the application of the person prosecuting the decree or order, issue under the seal of the Court, a warrant of arrest directed to a proper officer who shall be thereby empowered to take the body of the disobedient person, and detain him in custody until further order.

Sequestration.

140. In case the person against whom the warrant of arrest issues is not and cannot be found, or is taken and detained in custody under the warrant without obeying the decree or order, then the person prosecuting the decree or order shall be entitled to an order of sequestration against his property.

Commitment for Disobedience.

141. Where any person over whom the Court has jurisdiction is guilty of wilful disobedience to a decree or order, the person prosecuting the decree or order shall be entitled to apply to the Court for an order on the disobedient person to show cause why he should not be punished for the disobedience. The Court, unless it sees good reason to the contrary, shall on such application make an order accordingly.

The Court shall not grant the order except on evidence on oath establishing such a case as, if uncontradicted and unex-

plained, would justify the immediate commitment of the disobedient person.

A certified copy of the affidavit or deposition on which the order is granted shall be served on the party to whom the order is directed together with the order, and he may file counter-affidavits.

142. On the return day of the order, if the person to whom it is directed does not attend and does not establish a sufficient excuse for not attending, and if the Court is satisfied that the order has been duly served,—or if he attends and does not show cause to the satisfaction of the Court why he should not be punished for the disobedience,—the Court may issue a warrant for his commitment to prison.

The Court may enlarge the time for the return of the order, or may, on the return of it and under circumstances which would strictly justify the immediate commitment of the person guilty of the disobedience, direct that the warrant for his commitment shall issue only after a certain time and in the event of his continued disobedience at that time to the decree or order in respect of which he has been guilty of disobedience.

143. A person committed for disobedience to a decree or order is liable to be detained in custody until he has obeyed the decree or order in all things that are to be immediately performed, and given such security as the Court thinks fit to obey the other parts of the decree or order (if any) at the future times thereby appointed,—or in case of his no longer having the power to obey the decree or order,—then until he has been imprisoned for such time or until he has paid such fine as the Court directs.

VI.—Interlocutory Proceedings.

144. Interlocutory applications may be made at any stage of a suit or proceeding.

They shall be made either by motion or on application for a summons.

Motions.

145. Motions must be reduced to writing in the terms of the order sought from the Court; and a motion shall not be entertained until the party moving has filed in the Court a written motion-paper distinctly stating the terms of the order sought (Form 8).

The motion may in its terms ask for an order directing more than one thing to be done, and may also be in an alternative form, asking that one or another order be made, so only that the whole order sought be therein substantially expressed.

If the motion-paper contains any matter by way of argument or other matter except the proper particulars of the

motion itself, the Court shall direct the motion-paper to be amended, and shall make no other order thereon until it is amended accordingly, by the striking out of such argument or other matter.

There shall be filed with the motion-paper all affidavits on which the person moving intends to rely.

No other evidence can be used in support of the motion except by leave of the Court.

No paper accompanying the motion-paper other than an affidavit shall be received.

146. The person filing the motion-paper may then either move the Court while sitting, and on such days and at such times, if any, as are by the regulations of the Court appointed for hearing motions,—or in cases of urgency at any time while the Court is sitting and not engaged in hearing any other matter,— or send a written request to the Court for an order according to the motion-paper, with such argument stated in writing in support of his motion as he thinks fit.

147. All motions shall be made *ex parte* in the first instance, unless the Court gives leave to give a notice of motion for a certain day.

148. On a motion *ex parte* the party moving shall apply for either an immediate absolute order of the Court in the terms of the motion-paper on his own showing and evidence, or an order to the other party to appear on a certain day and show cause why an order should not be made in the terms of the motion-paper.

Any party moving in Court *ex parte* may support his motion by argument addressed to the Court on the facts put in evidence by the affidavits filed in support of the motion; and no party to the suit or proceeding, although present, other than the party moving, shall be entitled to be then heard.

149. On a motion coming on the Court may allow the motion-paper to be amended.

It may allow additional evidence to be produced by affidavit or deposition.

It may direct the motion to stand over.

It may refuse the motion.

It may make an order in terms of the motion.

Where an immediate order absolute is asked, and the right thereto clearly appears, it may grant such order.

It may grant an order to show cause why the order sought should not be made.

It may allow a motion on notice to be made.

If the motion, as originally framed, or as amended, is substantially divisible into two or more parts, it may divide the same, and deal in different ways with the separate parts thereof, as the case may require.

If it appears to the Court on the evidence adduced in support of the motion, or on any additional evidence which the

Court permits to be adduced in support thereof, that the party moving is entitled to an order absolute or to show cause different from the order asked, and the party moving is willing to take such different order the Court may so order accordingly.

If he is not willing to take such different order, the Court shall refuse the motion.

150. Where an order is made on a motion *ex parte*, any party affected by it may, within 7 days after service of it, apply to the Court by motion to vary or discharge it; and the Court, on notice to the party obtaining the order, either may refuse to vary or discharge it, or may vary or discharge it with or without imposing terms as to costs or security, or other things, as seems just.

Orders to show Cause.

151. An order to show cause shall specify a day when cause is to be shown, to be called the return-day to the order, which shall ordinarily be not less than four days after service.

A person served with an order to show cause may, before the return-day, file affidavits in order to contradict the evidence used in obtaining the order, or setting forth other facts on which he relies, to induce the Court to discharge such order.

On the return-day, if the persons served do not appear, in person or by counsel or attorney, and it appears to the Court that the service on all proper parties has not been duly effected, the Court may enlarge the time, and direct further service, or make such other order as seems just.

If the persons served appear, or the Court is satisfied that service on all proper parties has been duly effected, the Court may proceed with the matter.

The Court may either discharge the order,—or make the same absolute,—or adjourn the consideration thereof,—or permit further affidavits to be filed in support of or against the order,—and may modify the terms of the order so as to meet the merits of the case,—and may make the order so modified absolute,—and may, if the order against which cause is shown is substantially divisible into two or more parts, divide the same and deal in different ways with the separate parts as seems fit; and the Court, as part of its order, may impose terms as to costs or other things on the parties, or any of them, as seems just.

Summons.

152. An interlocutory application for a summons need not be made in writing, but may be made in person either by the applicant himself, or by his counsel or attorney.

If the Court considers that a summons ought to be granted, it may issue a summons ordering the person to whom it is directed to attend at the time and place specified therein, either in person or

by counsel or attorney, and briefly but distinctly setting forth the nature of the particular application.

The summons shall be headed in the suit or other proceeding.

On the return-day of the summons, if the person to whom the summons is directed attends, or, in his absence, on proof of service, the Court may, on the application of the person obtaining the summons, consider and deal with the application in a summary way.

The Court shall take a note of the material evidence if taken *viva voce*.

The Court may adjourn the hearing of any summons when necessary.

VII.—Appeal to Supreme Court.

1.—*In General.*

153. An appeal does not lie from an order made *ex parte*.

Any person aggrieved by such an order must apply to the Court by which it was made to vary or discharge it.

154. Application for leave to appeal must be made to the Court whose decision is to be appealed from, by motion, *ex parte*, ordinarily within 7 days after the decision to be appealed from is given, but afterwards by special leave of the Court.

155. If leave to appeal is applied for by a person directed by a decree or order to pay money, or do any other act, the Court below shall direct either that the decision appealed from be carried into execution, or that the execution thereof be suspended pending the appeal, as the Court considers to be in accordance with substantial justice.

If the Court directs the decision to be carried into execution, the person in whose favour it is given shall, before the execution of it, give security to the satisfaction of the Court for the due performance of such order as the Supreme Court may make.

If the Court directs the execution of the decision to be suspended pending the appeal, the person against whom the decision is given shall, before any order for suspension of execution, give security to the satisfaction of the Court for the due performance of such order as the Supreme Court may make.

In all cases security shall also be given by the appellant to the satisfaction of the Court, to an amount not exceeding 250 dollars, for the prosecution of the appeal, and for payment of all fees and charges in the Court below and in the Supreme Court, and of all such costs as may be awarded to any respondent by the Supreme Court.

If the last mentioned security is given within 14 days after motion made for leave to appeal, then and not otherwise the Court below shall give leave to appeal, and the appellant shall be at liberty to prefer and prosecute his appeal accordingly.

In any case other than the cases hereinbefore described, the Court below, if it considers it just or expedient (for reasons to be recorded in the minutes of proceedings) to do so, may give leave to appeal on the terms and in the manner aforesaid.

156. Where there are more plaintiffs than one an appeal cannot be prosecuted except by all the plaintiffs jointly.

Where there are more defendants than one, any one or more of them may prosecute an appeal separately; but defendants severing in appeal do so at the risk of costs if the severance is improper.

157. The Supreme Court may require any party to an appeal to appear personally before it on the hearing of the appeal, or on any occasion pending the appeal: otherwise personal appearance shall not be requisite.

158. It is not open, as of right, to any party to an appeal to adduce new evidence in support of his original case; but a party may allege any facts essential to the issue that have come to his knowledge after the decision of the Court below, and adduce evidence in support of such allegations; and for the furtherance of justice the Supreme Court may, where it thinks fit, allow or require new evidence to be adduced.

159. The Court below shall not, except for some special cause, take upon itself the responsibility of the charge or of the transmission to the Supreme Court of original letters or documents produced in evidence in the suit.

Such original letters and documents shall be returned to the respective parties producing the same, and only copies thereof duly certified shall be transmitted in the appeal record.

The respective parties must, however, be prepared to produce the originals, if required by the Supreme Court, before or at the hearing of the appeal.

160. After the expiration of 6 months from the date of a decree or order leave to appeal against it shall not be given by a Provincial Court.

Application for leave to appeal must in that case be made to the Supreme Court, which shall grant such leave if, on consideration of all the circumstances of the case, it appears just and expedient that an appeal should be allowed, but not otherwise, and may impose such terms as to security and other things as seem just.

161. The foregoing Rules apply to suits for 250 dollars or upwards, with respect to which a right of appeal is given by the Order in Council under which these Rules are framed, and shall also be applied, as far as may be, *mutatis mutandis*, in cases where special leave to appeal is applied for to a Provincial or the Supreme Court.

162. An appeal from a decree or order made at the hearing of a suit shall be made by petition.

Other appeals shall be made by motion.

II.—*From Decrees or Orders at Hearing.*

163. The appellant must file his petition of appeal in the Court below within 14 days after leave to appeal is given.

164. The petition of appeal shall contain an exposition of the appellant's case as supported by evidence already before the Court, and by the record as it stands, and may not refer to any matter of fact not appearing by such record or evidence, or which may not by argument and inference be fairly deduced therefrom.

It shall set forth the grounds of appeal, and the particulars in which the decree or order appealed from is considered by the appellant to be erroneous or defective, and shall pray that the same may be reversed or varied, and that the Court above may make the particular order to which on the record and evidence as it stands the appellant conceives himself entitled, or such other order as the Court thinks just.

It may contain any matter by way of argument in support of the appeal.

165. The petition of appeal shall be served on such persons as the Court directs.

166. Any person on whom the petition of appeal has been served may, within 14 days after service, file in the Court below an answer to the petition of appeal.

The answer shall contain an exposition of the respondent's case as supported by the evidence already before the Court, and by the record as it stands, and may not refer to any matter of fact not appearing by such record or evidence, or not by argument and inference fairly deducible therefrom.

It shall simply conclude with a demand that the appeal be dismissed.

It may contain any matter by way of argument against the appeal.

167. Copies of the answer shall be furnished by the Court to such persons as it thinks fit.

168. All matter of objection to any appeal, as being out of time, or on any grounds other than on the merits of the case itself, must be substantially raised by the party desiring to rely thereon, in and by the answer to the petition of appeal, and if not so raised, or where no answer is put in, no such objection shall be permitted to be raised at the hearing of the appeal.

169. The absence of an answer shall not preclude any person interested in supporting the decree or order from supporting the same on the merits at the hearing of the appeal.

170. On the expiration of the time for answering, the Court below shall, without receiving any further pleading in appeal, make up the record of appeal, which shall consist of (1) the petition, pleadings, orders, and proceedings, and the decree or order in the suit, (2) a copy of all written and documentary evidence admitted or tendered, and of the notes of the *viva voce* evidence, (3)

the petition or petitions of appeal, and (4) the answer or answers thereto.

The whole record shall be fastened together, the several pieces shall be numbered, and the whole shall be secured by the seal of the Court below.

171. After the record of appeal has been made up, and until the appeal is disposed of, the Supreme Court shall be deemed in possession of the whole suite as between the parties to the appeal.

Every application in the suit shall be made to the Supreme Court, and not to the Court below, but any application may be made through the Court below.

172. The Supreme Court may from time to time make such orders as seem necessary for determining the real question in controversy between the parties,—and for that purpose may, as between the parties to the appeal, amend any defects or errors in the record of appeal,—and may direct the Court below to inquire into and certify its finding on any question as between such parties, or any of them, which it may be necessary, or expedient to determine before final judgment in the appeal,—and generally shall, as between the parties to the appeal, have as full and ample jurisdiction over the whole suit as if the same had been instituted and prosecuted in the Supreme Court itself as a Court of first instance by parties subject to its ordinary original jurisdiction,—and may rehear the whole case,—or may remit it to the Court below to be reheard, or to be otherwise dealt with as the Supreme Court directs.

173. The Supreme Court shall, on receiving the record of appeal, fix a day for the hearing thereof.

Such day shall be fixed as will allow of the Court giving notice thereof through the Court below to the parties to the appeal, and as will allow of the parties attending either in person or by counsel or attorney, if they or any of them desire to do so.

174. In case all the several parties to an appeal appoint persons at the place of sitting of the Supreme Court to represent them as their respective counsel or attorneys in the matter of the appeal, and cause the same to be notified to the Supreme Court, the Court shall allow the appeal to be set down in the general hearing list at once, and shall proceed to dispose of the appeal in its turn without further notice to the parties or any of them; and the respective representatives of the parties shall be bound to watch for and take notice of the day for the hearing of the appeal.

III.—*Not from Decrees or Orders at Hearing.*

175. The appellant shall file his appeal motion-paper in the Court below within 7 days after leave to appeal is given.

He may at the same time file in the Court below any argument he desires to submit to the Supreme Court in support of the appeal.

The motion-paper and the argument (if any) shall be served on such persons as the Court directs.

176. Any person so served may, within 7 days after service, file in the Court below any argument he desires to submit to the Supreme Court against the appeal.

Copies of such last-mentioned argument (if any) shall be furnished by the Court below to such persons as it thinks fit.

177. On the expiration of the time for filing such last-mentioned argument the Court below shall make up the record of appeal, which shall consist of (1) the petition and such portion of the pleadings, orders, proceedings, and evidence as relate to the particular decision appealed from, with (2) the appeal motion-paper and any argument or arguments filed.

The record shall be made up as on appeal from a decree.

178. The Court shall not cause notice to be given to the parties of the day when the appeal motion will be disposed of, unless under special circumstances it thinks fit to do so.

But when any party to the appeal motion notifies to the Supreme Court his desire to attend in person, or by counsel or attorney, when the motion is being disposed of he shall be at liberty to do so, and the Court shall hear him, or his counsel or attorney, before disposing of the motion.

VIII.—Summary Orders before Suit.

179. Where the extreme urgency or other particular circumstances of the case appear to the Court so to require, the Court may, on evidence on oath, without a petition having been previously presented, make *ex parte* an order of injunction, or an order to sequester money or goods, or to stop a passport, or the clearances of a ship, or to hold to bail.

180. Before making such an order, the Court shall require the person applying for it to enter into a recognizance (with or without a surety or sureties as the Court thinks fit, signed by the party applying (and his surety or sureties, if any), as a security for his being answerable in damages to the person against whom the order is sought, or to give such other security for that purpose, by deposit or otherwise, as the Court thinks fit.

181. Any such order shall not remain in force more than 24 hours, and shall at the end of that time wholly cease to be in force, unless within that time a suit is regularly instituted by the person obtaining the order.

Any such order shall be dealt with in the suit as seems just.

182. An order to hold to bail shall state the amount (including costs) for which bail is required.

It shall be executed forthwith.

The person arrested under it shall be entitled to be discharged from custody under it on bringing into Court the amount stated in the order, to abide the event of any suit instituted, or on entering into a recognizance (with or without a surety or sureties, as the

Court thinks fit), signed by him (and his surety or sureties, if any), as a security that he will abide by and satisfy any decree or order of the Court in any suit instituted, or on giving such other security for that purpose, by deposit or otherwise, as the Court thinks fit.

The person arrested shall be liable to be detained in custody under the order for not more than 7 days, if not sooner discharged; but the Court may, from time to time, on evidence on oath, renew the order, so, however, that no person be kept in custody under any such order and renewed order or orders for a longer time in the whole than 30 days.

IX.—Probate and Administration.

Deposit of Will in Lifetime.

183. Any British subject may in his lifetime deposit, for safe custody, in the Supreme or other Court, his own will, sealed up under his own seal and the seal of the Court.

Proceedings on Death.

184. The Supreme and every other Court shall endeavour to obtain, as early as may be, information of the death of every British subject dying within the particular jurisdiction, and all such information respecting the affairs of the deceased as may serve to guide the Court with respect to the securing and administration of his property.

On receiving information of the death of a British subject the Court shall put up a notice thereof at the place where its sittings are ordinarily held, and shall keep the same there until probate or administration is granted, or where it appears to the Court that probate or administration will not be applied for, or cannot be granted, for such time as the Court thinks fit.

185. Where it is shown to the satisfaction of the Supreme or other Court, that any paper purporting to be testamentary is in the possession or under the control of any person, the Court may, in a summary way, whether a suit or proceeding as to probate or administration is pending or not, order him (Form 24) to produce and bring into Court such paper.

Where it appears to the Supreme or other Court that there are reasonable grounds for believing that any person has knowledge of any paper purporting to be testamentary (although it is not shown to the satisfaction of the Court that the paper is in his possession or under his control), the Court may, in a summary way,—whether a suit or proceeding for probate or administration is pending or not,—order him to attend for the purpose of being examined respecting the same in open Court or on interrogatories, and after examination to produce the paper and bring it into Court.

Any person failing to attend or to be examined, or to produce

and bring in the paper accordingly, shall be liable to the same consequences as he would be liable to if he were a party to a suit in the Court, and had made like default.

186. The Court may, of its own motion, or on the application of any person claiming an interest under a will, give notice to the executor or executors (if any) therein named, to come in and prove the will or to renounce probate; and the executors or executor so named, or some or one of them, must within 14 days after notice come in and prove or renounce accordingly.

I.—*Probate or Administration in General.*

187. Probate (Form 13) or letters of administration with will annexed (Form 14) shall not issue until after the lapse of 7 days from the death of the deceased, except under the direction of the Judge of the Supreme Court or in case of great urgency.

Letters of administration (not with will annexed) shall not issue (Form 15) until after the lapse of 14 days from the death of the deceased, except under the direction of the Judge of the Supreme Court or in case of great urgency.

188. Where probate or administration is, for the first time, applied for after the lapse of 3 years from the death of the deceased, a grant shall not be made except under the direction of the Judge of the Supreme Court.

189. In any case a grant of probate or administration may be made by the Supreme Court, wheresoever in China or Japan the deceased had at the time of his death his place of abode; but where the deceased had at the time of his death his fixed place of abode in the district of a Provincial Court, the application for the grant shall not be entertained by the Supreme Court, except on the request of the Provincial Court.

190. Where any dispute or question arises in relation to the grant or the application for it,—or it appears to the Provincial Court doubtful whether or not the grant should be made,—the Provincial Court shall communicate with the Judge of the Supreme Court, who shall either direct the Provincial Court to proceed in the matter according to such instructions as the Judge thinks fit, or may direct that no further proceedings be taken in the matter by the Provincial Court, and that any party concerned may apply for a grant to the Supreme Court itself.

191. The Provincial Court, before proceeding in the matter of any application, shall take care to ascertain that the deceased had at the time of his death his fixed place of abode in the district of the Court, and shall not in this respect consider itself bound to rest satisfied with such evidence as is tendered by the person applying for the grant.

192. The Court shall, where it does it necessary, require proof in addition to the oath of the executor or administrator, of the testacy of the deceased or of the party applying for the grant.

193. The Court shall take care to ascertain the value of the property of the deceased as correctly as circumstances admit.

194. In no case shall the Court allow probate or letters of administration to issue until all inquiries which it seems fit to institute have been answered to its satisfaction.

The Court shall, however, afford as great facility for the obtaining of probate or administration as is consistent with due regard to the prevention of error and fraud.

195. In the following cases of probate or administration, a grant shall not issue except from the Supreme Court, under the immediate direction of the Judge, namely:

Probate, or administration with will annexed, where the will was executed before the 1st day of January, 1838, and there is no testamentary paper of a later date than the 31st day of December, 1837;

Probate, or administration with will annexed, the will being simply an execution of a special power, or being the will of a married woman made by virtue of a power;

Administration for the use or benefit of a minor or infant, or a lunatic or person of unsound mind;

Administration (with or without will annexed) of the property of a bastard dying a bachelor or spinster, or dying a widower or widow without issue, or of a person dying without known relative;

Limited administration;

Administration to be granted to a person not resident within China or Japan.

196. Revocation or alteration of a grant of probate or administration shall not be made except by the Supreme Court under the immediate direction of the Judge.

197. A notice to prohibit a grant of probate or administration (Form 28) may be filed in the Supreme Court, or in any Provincial Court.

Immediately on such a notice being filed in the Supreme Court, a copy thereof shall be sent to the Court of the district (if any) in which it is alleged the deceased had at the time of his death his fixed place of abode, and to any other Court to which it appears to the Judge of the Supreme Court expedient to send a copy.

Immediately on such a notice being filed in a Provincial Court, the Court shall send a copy thereof to the Supreme Court, and also to the Court of any other district in which it is known or alleged the deceased had at the time of his death a place of abode.

Such a notice shall remain in force for 3 months only from the day of filing, but it may be renewed from time to time.

Any such notice shall not affect any grant made on the day on which the notice is filed, or on which a copy of the notice is received, as the case may be.

The person filing such a notice shall be warned by a warning

in writing, under the seal of the Court (Form 29), being delivered at the place mentioned in the notice as the address of the person filing the notice.

After such a notice has been filed in a Provincial Court, or after a copy of such a notice has been received by a Provincial Court (as the case may be), the Provincial Court shall not make a grant of probate or administration, but any grant shall be made only by the Supreme Court, under the immediate direction of the Judge.

198. Notices in the nature of citations shall be given by publication in such newspapers, or in such other manner as the Court, in each case, directs.

199. Suits respecting probate or administration shall be instituted and conducted as nearly as may be in the same manner as suits for claims of 100 dollars and upwards.

200 All original wills, of which probate or administration with will annexed is granted, shall be filed and kept in the public office of the Supreme or other Court from which the grant issues, in such a manner as to secure at once the due preservation and the convenient inspection of the same; and no original will shall be delivered out for any purpose without the express and special direction, in writing, of the Judge of the Supreme Court.

An official copy of the whole or of any part of a will, or an official certificate of a grant of administration, may be obtained from the Supreme or other Court where the will has been proved or the administration granted, on payment of the proper fees.

201. On the 1st day of February and the 1st day of August in every year, every Provincial Court shall send to the Supreme Court—

A list (Form 30) of the grants of probate and administration made by it up to the last preceding 1st day of January and 1st day of July respectively, and not included in any previous list;

And also a copy, certified by the Provisional Court to be a correct copy, of every will to which any such probate or administration relates.

II.—*Probate and Administration with Will Annexed.*

202 In the following rules respecting probate and administration the expression "the proper officer" means, as to the provinces, the Consul-General, Consul, or Vice-Consul holding and forming a Court; as to the Supreme Court, such one of the officers attached thereto, as for the time being acts in matters of probate and administration by the authority and under the direction of the Judge.

203 On receiving an application for probate or for administration with will annexed, the proper officer must inspect the will, and see whether it appears to be signed by the testator or by some other person in his presence and by his direction, and subscribed by two witnesses according to the provisions of the

Acts of Parliament 7 Will. IV and 1 Vict., c. 26, sec. 9,* and 15 and 16 Vict., c. 24, sec. 1,† and in no case may he proceed further, if the will does not appear to be so signed and subscribed.

204. If the will appears to be signed by or for the testator and subscribed by two witnesses, the officer must then refer to the attestation clause (if any), and consider whether the wording thereof shows the will to have been in fact executed in accordance with the provisions of the said Acts.

205. If there is no attestation clause to the will, or if the attestation clause thereto is insufficient, the officer must require an affidavit (Form 9) from at least one of the subscribing witnesses, if either of them is living, to prove that the will was in fact executed in accordance with the provisions of the said Acts.

The affidavit must be engrossed and form part of the probate, so that the probate may be a complete document on the face of it.

If on perusal of the affidavit it appears that the will was not in fact executed in accordance with the provisions of the said Acts, the officer must refuse probate.

If on perusal of the affidavit it appears doubtful whether or not the will was in fact executed in accordance with the provisions of the said Acts, the officer must lay a statement of the matter before the Judge of the Supreme Court for his directions.

* "And be it further enacted, that no will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned; (that is to say,) it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary."

† "Where by an Act passed in the first year of the reign of Her Majesty Queen Victoria, intituled 'An Act for the Amendment of the Laws with respect to Wills,' it is enacted, that no will shall be valid unless it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction: Every will shall, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, be deemed to be valid within the said enactment, as explained by this Act, if the signature shall be so placed at or after, or following, or under, or beside, or opposite to the end of the will, that it shall be apparent on the face of the will that the testator intended to give effect by such his signature to the writing signed as his will, and that no such will shall be affected by the circumstance that the signature shall not follow or be immediately after the foot or end of the will, or by the circumstance that a blank space shall intervene between the concluding word of the will and the signature, or by the circumstance that the signature shall be placed among the words of the testimonium clause or of the clause of attestation, or shall follow or be after or under the clause of attestation, either with or without a blank space intervening, or shall follow or be after or under or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature shall be on a side or page or other portion of the paper or papers containing the will whereon no clause or paragraph or disposing part of the will shall be written above the signature, or by the circumstance that there shall appear to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature under the said Act or this Act shall be operative to give effect to any disposition or direction which is underneath or which follows it, nor shall it give effect to any disposition or direction inserted after the signature shall be made."

If both the subscribing witnesses are dead, or if from other circumstances no affidavit can be obtained from either of them, resort must be had to other persons (if any who were present at the execution of the will; but if no affidavit of any such other person can be obtained, evidence on oath must be procured of that fact and of the handwriting of the deceased and of the subscribing witnesses and also of any circumstances that may raise a presumption in favour of the due execution of the will.

206. The officer shall not allow probate of the will, or administration with the will annexed, of any blind person, or of any obviously illiterate or ignorant person, to issue, unless he has previously satisfied himself, by what appears on the face of the will or by evidence on oath, that the will was read over to the deceased before its execution, or that the deceased had at that time knowledge of its contents.

Where this information is not forthcoming, the officer must communicate with the Judge of the Supreme Court.

207. Having satisfied himself that the will was duly executed, the officer must carefully inspect the same, to see whether there are any interlineations, or alterations, or erasures, or obliterations appearing in it and requiring to be accounted for.

Interlineations and alterations are invalid unless they existed in the will at the time of its execution, or, if made afterwards unless they have been executed and attested in the mode required by the said Acts of Parliament, or unless they have been made valid by the re-execution of the will, or by the subsequent execution of some codicil thereto.

Where interlineations or alterations appear in the will (unless duly executed or recited in or otherwise identified by the attestation clause), an affidavit or affidavits in proof of their having existed in the will before its execution, must be filed.

In like manner, erasures and obliterations are not to prevail unless proved to have existed in the will at the time of its execution, or unless the alterations thereby affected in the will are duly executed and attested, or unless they have been made valid by the re-execution of the will, or by the subsequent execution of some codicil thereto.

If no satisfactory evidence is adduced as to the time when the erasures or obliterations were made, and the words erased or obliterated are not entirely effaced, and can on inspection of the paper, be ascertained they must form part of the probate.

In every case of words having been erased which might have been of importance, an affidavit must be required.

If reasonable doubt exists in regard to any interlineation, alteration, erasure, or obliteration, the officer shall, before proceeding further in the matter, communicate with the Judge of the Supreme Court for his directions.

208. Where a will contains a reference to any deed, paper, memorandum, or other document of such a nature as to raise a

question whether it ought or ought not to form a constituent part of the will, the production of the deed, paper, or memorandum, or other document must be required, with a view to ascertain whether or not it is entitled to probate; and if not produced the non-production of it must be accounted for by evidence on oath.

Any deed, paper, memorandum, or other document cannot form part of a will or codicil, unless it was in existence at the time when the will or codicil was executed.

If there are any vestiges of sealing wax or wafers or other marks on the testamentary paper, leading to the inference that some paper, memorandum, or other document has been annexed or attached thereto, they must be satisfactorily accounted for by evidence on oath, or the production of such paper, memorandum, or other document must be required, and if not produced, the non-production of it must be accounted for by evidence on oath.

If doubt exists as to whether or not any such deed, paper, memorandum, or other document is entitled to probate as a constituent part of the will, the officer shall, before proceeding further in the matter, communicate with the Judge of the Supreme Court for his directions.

209. The foregoing rules respecting wills apply equally to codicils.

210. Every will or copy of a will or other testamentary paper to which an executor or an administrator with will annexed is sworn shall be marked by such executor or administrator and by the person before whom he is sworn.

211. The officer shall take care that the copies of wills to be annexed to probates or letters of administration are fairly and properly written, and to reject those which are not so.

III.—*Administration.*

212. The duties of the proper officer in granting administration (not with will annexed) are in many respects the same as in cases of probate.

He shall ascertain the time and place of the deceased's death, and the value of the property to be covered by the administration.

213. Where an executor appointed in a will survives the testator, but either dies without having taken probate or being summoned or called on by the Court to take probate, does not appear, his right in respect of the executorship wholly ceases, and the representation to the testator and the administration of his effects without further renunciation go, devolve, and may be committed in like manner as if he had not been appointed executor.

214. Where administration is applied for by one or some of the next of kin only, there being another or other next of kin equally entitled thereto, the proper officer shall require proof by

affidavit that notice of the application has been given to the other next of kin.

215. Every person to whom administration is granted shall give bond (Forms 18, 19) with two or more responsible British subjects as sureties, to the Judge of the Supreme Court, to ensure in favour of the Judge for the time being, conditioned for duly collecting, getting in, and administrating the personal estate of the deceased.

Where, however, the property is under the value of 250 dollars, one such surety only need be taken.

The bond shall be in a penalty of double the amount under which the personal estate of the deceased is sworn, unless the proper officer in any case thinks it expedient to reduce the amount, for reasons to be forthwith certified by him to the Judge of the Supreme Court.

The proper officer may also, in any case, direct that more bonds than one shall be given, so as to limit the liability of any surety to such amount as the officer thinks reasonable.

216. The Judge of the Supreme Court may, on application, in a summary way, and on being satisfied that the condition of any administration bond has been broken, assign the same to some person, who shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him instead of to the Judge of the Supreme Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond.

X.—Arbitration.

217. The following rules respecting arbitration apply exclusively to cases where the agreement for reference to arbitration or submission to arbitration by consent is made a rule of Court.

218. Arbitrators shall make their award within one calendar month after they have entered on the reference or been called on to act by a notice in writing from any party, unless the document authorising or making the reference contains a different limit of time.

219. The Court may, if it thinks fit, on reasonable notice to all parties, from time to time enlarge the time for making the award for such time as it thinks fit, the reasons for such enlargement being recorded in the minutes of proceedings.

220. An umpire may enter on the reference in lieu of the arbitrators, if the latter have allowed their time or their extended time to expire without making an award, or have filed in the Court a notice in writing that they cannot agree.

221. The authority of an arbitrator or umpire is not revocable, except by the Court.

222. Where it appears to the arbitrators or umpire that any difficult question of law is involved in or raised by the facts as

finally ascertained by them or him, they or he may, if it seems fit, state the award (as to the whole or any part thereof) in the form of a special case for the opinion of the Court having jurisdiction in the matter or of the Supreme Court.

The Court shall consider and deliver judgment on such case, and shall be at liberty to draw inferences of fact from the facts stated, and to amend the case or remit it for amendment by reason of any irregularity, mistake, or imperfection.

223. The arbitrators or umpire shall have power to award how the costs of the reference shall be borne, in the whole or in part; but any award as to costs shall not preclude the party or parties against whom costs are awarded from applying to the Court to tax the costs; and on such application the costs, including the remuneration (if any) of the arbitrators and umpire, or any of them, shall be taxed at a reasonable rate by the Court, and the Court shall make such order regarding the costs of taxation as justice requires.

224. Every award must be in writing, signed by the arbitrators or umpire making the same.

It must contain a conclusive finding, and may not find on the contingency of any matter of fact being afterwards substantiated or deposed to.

It must comprehend a finding on each of the several matters referred.

Arbitrators or an umpire may, however, from time to time, make several awards on several parts of a matter or on several matters referred, so as the latest of the awards is made within the time limited.

225. The arbitrators or umpire making an award shall, within the time limited, deposit the award in the Court, enclosed in a sealed envelope, and endorsed with the names of the parties to the reference, and the amount claimed by the arbitrators and umpire for remuneration.

Notice of the award having been deposited shall be given by the Court to the parties, who shall be at liberty to read the award, and to have copies of it on payment of the proper fees.

226. Any person interested may within seven days after notice of the award apply to the Court by motion to prevent the award, or any specified part of it, being carried into effect.

227. If no such motion is made, the Court shall proceed, on reasonable notice to all parties, to make such order for carrying into effect the award, or any part thereof, and as to costs and other things, as seem just.

228. The Court shall have power at any time, and from time to time, to remit the matters referred, or any of them, to the reconsideration and redetermination of the arbitrators or umpire, on such terms as to costs and other things as seem just.

229. The Court shall not refrain from carrying an award into effect merely on the ground of irregularity in the submission, or during the reference, where such irregularity has not

been substantially prejudicial to the party applying against the award.

XI.—Affidavits and other Evidence.

Affidavits.

230. Every affidavit used in the Court must be either in English, or in the usual and familiar language of the witness swearing it.

An affidavit in any language other than English must be accompanied by a sworn translation into English, procured by and at the expense of the person using the affidavit.

231. Every affidavit sworn before any British judicial or Consular officer in China or Japan, in the matter of any suit or other proceeding in Her Majesty's Courts in China and Japan, must be headed in the Court, and in the suit or proceeding in which the affidavit is to be used.

It must state the full name, trade or profession, address and nationality of the witness.

It may be in the first or in the third person, and may be divided into convenient paragraphs numbered consecutively.

232. Every affidavit used in the Court must contain only a statement of facts and circumstances, to which the witness swears, either on his own personal knowledge, or from information which he believes to be true.

It must not contain any extraneous matter, by way of objection, prayer, or legal argument or conclusion; and every statement must be as brief and positive as may be consistent with proper fulness and with truth.

The matter of fact sworn to, whether in affirmation or denial, if within the knowledge of the witness, must be sworn to positively and certainly.

Where a witness swears to his belief in any matter of fact, such relief arising from any source other than his own personal knowledge, he must set forth explicitly the facts and circumstances forming the ground of his belief.

Where the belief in the truth of the matter of fact sworn to arises from information received from another person, the name of such person must be stated, and such particulars must be given as to the informant, and as to the time, place, and circumstances of the information, as may afford means to other parties to verify or contradict the same.

233. Where an affidavit is to be sworn before a British judicial or Consular officer in China or Japan, any erasure, interlineation, or alteration, made before the affidavit is sworn, shall be attested by the officer, who shall affix his signature or initials in the margin immediately opposite to the erasure, interlineation, or alteration.

Where there are many erasures, interlineations, or alter-

ations, so that the affidavit proposed to be sworn is illegible, or difficult to read, or is in the judgment of the officer before whom it is proposed to be sworn so written as to give any facility for being added to or in any way fraudulently altered he may refuse to take the affidavit in its existing form, and may require it to be re-written in a clear and legible and unobjectionable manner.

234. An affidavit sworn before any British judicial or Consular officer, authorised to take affidavits,—before any Judge, Officer, or other person in the United Kingdom, or in any British colony or possession, authorised to take affidavits,—before any Mayor or other magistrate in any foreign country authorised to administer an oath,—or in the case of a foreigner in China or Japan before his own proper Consular or other authority,—may be used in the Court.

235. An affidavit may be used, notwithstanding it is defective in form according to these Rules, if the Court is satisfied that it has been sworn before a person duly authorised, and that its form is in accordance with the law and custom of the place where it is sworn.

236. An affidavit shall not be admitted which is proved to have been sworn before a person on whose behalf the same is offered, or before his attorney, or before a partner or clerk of his attorney.

237. Every affidavit sworn before a British judicial or Consular officer in China or Japan must be signed by the witness; or in case the witness cannot write his name, his mark must be subscribed; such signature or mark to be made in the presence of the officer.

238. The jurat should be written without interlineation or erasure, immediately at the foot of the affidavit, and towards the left side of the paper, and must be signed by the judicial or Consular officer before whom the affidavit is sworn, and be sealed with the seal of the Court of which he is an officer, or with his Consular or other official seal (as the case may be).

It must state the date of the swearing of the affidavit, and the place where it was sworn.

It must state that the affidavit was sworn before the judicial or Consular officer.

Where the witness is blind or illiterate it must state that fact, and that the affidavit was read over to him in the presence of the officer, and that the witness appeared perfectly to understand it.

Where the witness cannot write his name, and therefore subscribes his mark, the jurat must state those facts, and that the mark was made in the presence of the officer.

Where two or more persons join in making an affidavit, their several names must be written in the jurat, and it must appear by the jurat that each of them has been sworn to the truth of the several matters stated by him in the affidavit.

239. The judicial or Consular officer must not allow an affidavit, when once sworn, to be altered in any manner whatever without being re-sworn.

If the jurat has been added and signed, a new jurat must be added if the affidavit is re-sworn; and in the new jurat mention must be made of the alteration.

Any officer before whom an affidavit is proposed to be re-sworn after alteration may refuse to allow the same to be re-sworn, and may, in lieu thereof, require the witness to make a fresh affidavit.

240. A defective or erroneous affidavit may be amended and re-sworn, by special leave of the Court in which it is to be used, on such terms as to time, costs, and other things, as seem just.

241. Where an affidavit used in the Court is not in accordance with these rules, the Court may make such order respecting the costs of, or connected with, the affidavit as seems just.

242. Before an affidavit is used in the Court, the original affidavit must be filed in the Court; and the original or an office copy thereof (that is, a copy sealed with the seal of the Court as evidence of its being a correct copy, and either made under the direction of the Court or produced to the Court for examination and sealing) shall alone be recognised for any purpose in the Court.

Other Evidence.

243. On the hearing of any interlocutory or other application in a suit or matter, the Court may, if it thinks it just and expedient, for reasons to be recorded in the minutes of proceedings, summon a British subject to attend to produce documents before it, or to be examined, or to be cross-examined and re-examined, *viva voce*, by or before it, in like manner as at the hearing of a suit.

Such notice as the Court in each case, according to the circumstances, considers reasonable shall be given to the person summoned, and to such persons (parties to the suit or proceeding or otherwise interested) as the Court considers entitled to inspect the documents to be produced, or to examine, cross-examine, or re-examine the person summoned, or to be present at his examination, cross-examination, or re-examination, as the case may be.

The evidence of a witness on any such examination, cross-examination, or re-examination shall be taken in like manner, as nearly as may be, as evidence at the hearing of a suit.

244. Where the circumstances of the case appear to the Court so to require, for reasons to be recorded in the minutes of proceedings, the Court may, in like manner, take the evidence of any witness at any time in the course of the proceedings in any suit or application as preparatory to the hearing of the suit or application, and the evidence so taken may be used at the hearing of the suit or application, saving just exceptions.

The evidence shall be taken in like manner, as nearly as may be, as evidence at the hearing of a suit, and then the note of the evidence shall be read over to the witness and tendered to him for signature; and if he refuses to sign it, the Court shall add a note of his refusal, and the evidence may be used as if he had signed it.

245. Evidence may be taken in like manner on the application of any person, before suit instituted, where it is shown to the satisfaction of the Court on oath that the person applying has good reason to apprehend that a suit will be instituted against him in the Court, and that some person, within the particular jurisdiction at the time of application, can give material evidence respecting the subject of the apprehended suit, but that he is about to leave the particular jurisdiction, or that from some other cause the person applying will lose the benefit of his evidence if it be not at once taken.

Witness dead, insane, or not appearing.

246. Where any person who might give evidence in any suit or matter is dead or insane, or unavoidably absent at the time his evidence might be taken, or for any reason considered sufficient by the Court cannot appear to give evidence in the suit or matter, the Court may, if it thinks fit, receive proof of any evidence given by him in any former judicial proceeding; provided that the subject matter of such former judicial proceeding was substantially the same as that of the existing suit, and that the parties to the existing suit were parties to it or bound by it, and in it had cross-examined or had an opportunity of cross-examining the witness of whose evidence proof is so to be given.

Oath.

247. On any occasion the Court may, if it thinks it just and expedient for reasons to be recorded in the minutes of proceedings, take without oath the evidence of any person objecting on grounds of conscience to take an oath,—the fact of the evidence having been so taken without oath being also recorded in the minutes of proceedings.

Admission of Documents.

248. Where all parties to a suit are competent to make admissions, any party may call on any other party by notice filed in the Court, and served under order of the Court, to admit any document, saving just exceptions.

In case of refusal or neglect to admit, the costs of proof of the document shall be paid by the party refusing or neglecting, whatever be the result of the cause, unless the Court is of opinion that the refusal or neglect to admit was reasonable.

No costs of proof of any document shall be allowed unless such notice has been given, except in cases where the omission to give the notice has in the opinion of the Court produced a saving of expense.

XII.—Miscellaneous Provisions.

Attorneys and Agents.

249. Every person doing any act or taking any proceeding in the Court as plaintiff, or otherwise, must do so in his own name and not otherwise, and either by himself or by his attorney, procurator, or agent thereunto lawfully authorised in writing.

250. Where such act is done or proceeding taken by an attorney, procurator, or agent, the power of attorney, or instrument constituting the procurator or agent, or an authenticated copy thereof, must be filed in the Court before or at the commencement of the proceedings.

Where the authority is special and has reference only to the particular proceeding to be taken, the original document itself must be filed.

Where the authority is general or has reference to other matters in which the attorney, procurator, or agent is empowered to act, an authenticated copy of such document may be filed.

The authority, whether general or special, must be distinct and clear, so as to satisfy the Court that the person professing to act thereon has such authority as he claims to exercise.

251. Any person doing any act or taking any proceeding in the Court in the name or on behalf of another person, not being lawfully authorised thereunto, and knowing himself not to be so authorised, is guilty of a contempt of Court.

Proceedings by or against Partnerships.

252. Proceedings by or on behalf of or against a partnership solely or jointly must be taken in the several names of the partners as individuals, and not in the name of the firm or otherwise.*

Plaintiff out of Jurisdiction.

253. Where a plaintiff, whether suing alone or suing jointly, is out of the jurisdiction of the particular Court, or is only temporarily resident within it, he must file in the Court, at or before the commencement of proceedings, a written statement of a fit place within the jurisdiction where notice or process may be served on him.

He must also give security for costs and fees by deposit, or by bond in the penal sum of 500 dollars.

The Court may at any time during the suit or proceeding,

* Repealed by Order in Council of October 25, 1881. Page 619

either on its own motion or on the application of any defendant, order him to give further or better security for costs and fees, and may direct proceedings to be stayed in the meanwhile.

Service.

254. Service of a petition, notice, summons, decree, order, or other document of which service is required by these Rules, or according to the course of the Court, shall be made by an officer of the Court, unless in any case the Court thinks fit otherwise to direct; and service shall not be valid unless it is made under an order of the Court (in writing under the seal of the Court), which may be either indorsed on or subscribed or annexed to the document to be served.

255. Unless in any case the Court thinks it just and expedient otherwise to direct, service shall be personal,—that is, the document to be served shall, together with the order for service (indorsed, subscribed, or annexed), be delivered into the hands of the person to be served.

256. Where it appears to the Court (either with or without any attempt at personal service) that for any reason personal service cannot be conveniently effected, the Court may order that service be effected either—

(i.) By delivery of the document to be served, together with the order for service, to some adult inmate at the usual or last known place of abode or business within the particular jurisdiction of the person to be served; or

(ii.) By delivery thereof to some agent within the particular jurisdiction of the person to be served, or to some other person within the particular jurisdiction through whom it appears to the Court there is a reasonable probability that the document and order served will come to the knowledge of the person to be served; or

(iii.) By advertisement in some newspaper circulating within the particular jurisdiction; or

(iv.) By notice put up at the Court, or at some other place of public resort within the particular jurisdiction.

257. Ordinarily, service shall not be made out of the particular jurisdiction, except under an order for that purpose made by the Court within whose jurisdiction service is to be made, which order may be made on the request of any other Court, and shall in each case direct in which of the modes above-mentioned service is to be effected.

Where, however, the urgency or other peculiar circumstances of the case appear to any Court so to require (for reasons to be recorded in the minutes of the proceedings), the Court may order that service be made out of the particular jurisdiction.

258. Any order for service may be varied from time to time with respect to the mode of service directed by the order, as occasion requires.

259. Service of a document not required to be served personally must be made before 5 o'clock in the evening.

If made after that hour on any day but Saturday, it shall be considered as made on the following day.

If made after that hour on Saturday, it shall be considered as made on the following Monday.

260. No service in a civil suit shall be made on Sunday, Christmas Day, or Good Friday.

Absconding Defendant.

261. Where the Court is satisfied by evidence on oath that there is good reason to believe that a defendant means to abscond in order to avoid the process of the Court, after suit or other proceeding instituted, the Court may make an order to hold him to bail, and may require of him such security as seems fit for his remaining within the particular jurisdiction, and abiding and performing by any decree or order to be made in the suit or proceeding, and for costs and fees.

Costs.

262. The costs of the whole suit and of each particular proceeding therein are in the discretion of the Court; but the Court shall not order the successful party in a suit to pay to the unsuccessful party the costs of the suit generally, although the Court may order him, notwithstanding his success in the whole suit, to pay the costs occasioned by any particular proceeding therein.

263. The Court may, if in any case it seems fit, require any party to any suit or proceeding, either at the commencement or at any time during the progress thereof, to give security for costs, to the satisfaction of the Court, by deposit or otherwise.

Paupers.

264. The Court may admit any person to sue *in formâ pauperis* on being satisfied of his poverty and that he has *primâ facie* a case proper for some relief in the Court; and may admit any person to defend *in formâ pauperis* on being satisfied of his poverty.

265. If in any case the Court thinks fit to assign a counsel or attorney to assist a person admitted to sue or defend *in formâ pauperis*, the counsel or attorney so assigned may not refuse his assistance, unless he satisfies the Court of some good reason for refusing.

266. If a pauper gives or agrees to give any fee, profit, recompense, or reward for the despatch of his business in Court he shall be deemed guilty of a contempt of Court, and he shall also be forthwith dispaupered, and shall not be afterwards admitted again in that suit to sue or defend *in formâ pauperis*.

267. A person admitted to sue or defend *in formâ pauperis*

may be dispaupered by order of the Court, on its appearing that he was not when admitted, or no longer is, of sufficient poverty, or that he is abusing his privilege by vexatious proceedings.

Computation of Time.

268. Where by these rules, or any special order, or the course of the Court, any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, and such time is not limited by hours, the computation of such limited time does not include the day of such date or of the happening of such event, but commences at the beginning of the next following day, and the act or proceeding must be done or taken at the latest on the last day of such limited time according to such computation.

269. Where the limited time so appointed or allowed is less than 6 days, the following days shall not be reckoned in the computation of such time, namely, Sundays, Good Friday, Monday and Tuesday in Easter week, Christmas Day and the day next before and the day next after Christmas Day.

270. Where the time for the doing of any act or the taking of any proceeding expires on one of the days last mentioned, the act or proceeding shall be considered as done or taken in due time if done or taken on the next day afterwards that is not one of the last-mentioned days.

271. The day on which an order that a plaintiff do give security for costs is served and the time thenceforward until and including the day on which such security is given, shall not be reckoned in the computation of the time allowed to a defendant for putting in his answer.

Supplemental Statement.

272. Facts or circumstances occurring after the institution of a suit may, by leave of the Court, be introduced by way of amendment into the petition or answer (as the case may require) at any stage of the proceedings, and the Court may make such order as seems just respecting the proof of such facts or circumstances, or for affording all parties concerned leave and opportunity to meet the statements so introduced.

Death of Party or other Change.

273. Where, pending a suit, any change or transmission of interest or liability occurs in relation to any party to the suit, or any party to the suit dies or (being a woman) marries, or the suit is in any other way rendered defective or incapable of being carried on, any person interested may, on motion *ex parte*, obtain from the Court such order as is requisite for curing the defect, or enabling or compelling proper parties to carry on the proceedings.

But it shall be open to any person served with such an order within such time, not exceeding 14 days, as the Court in the order directs, to apply to the Court by motion to discharge such order.

Adjournment.

274. Nothing in these rules shall affect the power of the Court (for reasons to be recorded in the minutes of proceedings) to defer or adjourn the hearing or determination of any suit, matter, proceeding, or application, for such a time and on such terms (if any) as justice requires.

Amendment.

275. Nothing in these rules shall affect the power of the Court (for reasons to be recorded in the minutes of proceedings) to order or allow any amendment of any petition, answer, notice, or other document whatever, at any time, on such terms (if any) as justice requires.

Power of Court as to Time.

276. Nothing in these rules shall affect the power of the Court (for reasons to be recorded in the minutes of proceedings) to enlarge or abridge the time appointed or allowed for the doing of any act or the taking of any proceeding on such terms (if any) as justice requires.

277. Where the Court is by these rules or otherwise authorised to appoint the time for the doing of any act or the taking of any proceeding, or to enlarge the time appointed or allowed for that purpose by these rules or otherwise, the Court may further enlarge any time so appointed or enlarged by it on such terms (if any) as seem just, provided that the application for further enlargement is made before the expiration of the time already allowed and that such further enlargement appears to the Court (for reasons to be recorded in the minutes of proceedings) to be required for the purposes of justice, and not to be sought merely for delay.

Guardian for Purposes of Suit.

278. Where on default made by a defendant in answering or otherwise defending the suit after due service of the petition, it appears to the Court that he is an infant or a person of weak or unsound mind (not so found by inquisition), so that he is unable of himself to defend the suit, the Court may, on the application of the plaintiff or of its own motion, appoint some fit person to be guardian of the defendant for the purposes of the suit, by whom he may defend the same.

But no such order shall be made except on notice, after expiration of the time for answering, and 4 days at least before the day

named in the notice for the hearing of the application, or for the Court proceeding (as the case may be), served on or left at the dwelling-house of the person with whom or under whose care the defendant was at the time of service of the petition, and also, in the case of an infant not residing with or under the care of his father or guardian, served on or left at the dwelling-house of such father or guardian, unless the Court thinks fit in any case to dispense with such last-mentioned service.

XIII.—Criminal Matters.*

I.—*In General.*

279. In the following rules (under the heading "Criminal Matters"), as far as they relate to the Supreme Court, the expression "the Court" means or includes (as the case may require) any officer of, or person attached to, the Supreme Court from time to time authorised to exercise or assist in the exercise of any part of the criminal jurisdiction of that Court.

280. A person making a criminal charge (Form 31) against another before the Supreme or other Court must do so in person or by attorney or counsel, or an agent lawfully thereunto authorised.

281. In every case, whether the charge is or is not such as must or may be heard and determined in a summary way, the Court shall proceed, if the accused is not already in custody, either by way of summons to him (Form 32), or by way of warrant for his apprehension in the first instance (Form 33), according as the nature and circumstances of the case require.

Summons.

282. For the issuing of a summons the charge need not be put in writing or be sworn to unless the Court so directs.

A summons shall be served by the delivery of it to the person summoned personally, or if he cannot be conveniently met with then by its being left at his usual or last known place of abode or business within the particular jurisdiction.

The person effecting service must attend at the time and place mentioned in the summons to prove service, if necessary.

Warrant.

283. If the person summoned does not obey the summons the Court may (after proof on oath of due service of the summons) issue a warrant for his apprehension (Form 34).

Notwithstanding the issuing of a summons, a warrant (Form 33) may be issued at any time before or after the time appointed in the summons for the appearance of the accused.

* See also Rules, 7th November, 1878. Page 617.

A warrant shall not be issued in the first instance unless the charge is in writing, on the oath of the person laying the charge or of some witness.

A warrant need not be made returnable at any particular time, but may remain in force until executed.

It may be executed by the apprehension of the accused at any place within the particular jurisdiction, and in case of fresh pursuit it may be executed at any place in another Consular district, without any application to the Court of that district.

Search Warrant.

284. Where positive proof or probable suspicion is shown to the Court by evidence on oath that any thing on, by, or in respect of which a crime or offence cognizable by the Court has been committed is in any house or place over which, by reason of the nationality of the occupier thereof, the Court has jurisdiction, the Court may issue a warrant to search the house or place, and if any thing searched for is found, to seize it, and apprehend the occupier of the house or place.

The warrant shall be directed to some officer by name, who alone shall be intrusted with its execution, but he may be accompanied by any person or persons necessary to assist him in his search.

A general warrant to search shall not be granted, but the particular house or place must be indicated in it.

If the house or place is closed, and the officer is denied admission, after demanding admission and disclosing his authority and the object of his visit, it may be forced open.

Where there is probable suspicion only, the warrant must be executed in the day time; where there is positive proof, it may be executed in the night time.

Witnesses.

285. Where it is shown to the Court, on oath, that any British subject within the particular jurisdiction is likely to give material evidence, either for the prosecution or for the defence, and will not voluntarily attend to give evidence at the preliminary examination, or in summary cases at the hearing of the charge, the Court shall issue a summons (Form 35) for his attendance.

286. If the person summoned does not obey the summons, and does not excuse his failure to the satisfaction of the Court, then (after proof on oath of due service of the summons) the Court may issue its warrant (Form 36) to compel his attendance.

287. Where it is shown to the Court, on oath, that any British subject within the particular jurisdiction is likely to give material evidence, either for the prosecution or for the defence, and that it is probable he will not attend to give evidence at the preliminary examination, or in summary cases at the hearing of the charge,

unless compelled to do so, then instead of issuing a summons the Court may issue a warrant (Form 37) in the first instance.

288. If, on the appearance of the person summoned, either in obedience to a summons, or on being brought up by virtue of a warrant, he refuses to take an oath, or, having taken an oath, to answer any question put to him, and does not excuse his refusal to the satisfaction of the Court, then the Court may, by warrant (Form 38), commit him to prison, there to remain for not more than 7 days, unless he in the meantime consents to answer duly on oath.

Issuing, &c., of Warrant on Sunday or Holy-day.

289. A warrant for apprehension or commitment or other purpose, or a search warrant, may be issued and may be executed on a Sunday, Good Friday, or Christmas Day, as well as on any other day, where the urgency of the case so requires.

II.—*Proceedings by Preliminary Examination and Indictment.*

290. The following rules (under the sub-heading "Proceedings by Preliminary Examination and Indictment") apply exclusively to cases where the charge is to be heard and determined not in a summary way, but on indictment.

Preliminary Examination.

291. Where the accused comes before the Court on summons or warrant, or otherwise, the Court, before committing him to prison for trial, or admitting him to bail, shall, in his presence, take the depositions on oath (Form 39) of those who know the facts and circumstances of the case, and shall put the same in writing.

292. The accused shall be at liberty to put questions to any witness produced against him, and the statements of any witness in answer thereto shall form part of that witness's deposition.

293. The deposition of each witness shall be read over to the witness, and shall be signed by him.

294. If on the trial of the accused it is proved on oath that any person whose deposition has been taken is dead or is so ill as not to be able to travel, and that his deposition was taken in the presence of the accused, and that he or his counsel or attorney cross-examined or had full opportunity of cross-examining the witness, the deposition may be read as evidence in the prosecution without further proof thereof.

295. No objection at the preliminary examination to any charge, summons, or warrant for any defect in substance or form, or for any variance between it and the evidence adduced on the part of the prosecution, shall be allowed; but if any variance appears to the Court to be such that the accused has been

thereby deceived or misled, the Court may, on the request of the accused, adjourn the examination, and in the meantime remand the accused or admit him to bail.

Statement of Accused.

296. After the examination of all the witnesses on the part of the prosecution is completed, the Court shall, without requiring the attendance of the witnesses, read over to the accused the depositions taken against him, and shall then say to him these words:

"Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you on your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat, that may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat."

Whatever the accused then says in answer thereto shall be taken down in writing (Form 40), and shall be read over to him, and shall be kept with the depositions of the witnesses, and afterwards, on the trial of the accused the same may be given in evidence against him without further proof thereof.

297. Nothing in the foregoing rules, however, is to prevent the prosecutor from giving in evidence any admission or confession or other statement of the accused made at any time, which would, by law, be admissible as evidence against him.

Publicity.

298. The room or place in which the preliminary examination is held is not an open or public Court for that purpose; and the Court may, in its discretion, in case it appears to it that the ends of justice will be best answered by so doing, order that no person have access to, or be, or remain in the room or place without the special permission of the Court.

Recognizance to Prosecute or give Evidence.

299. The Court may, at the preliminary examination, bind by recognizance (Form 41) the prosecutor and every witness to appear at the Court at which the accused is to be tried, to prosecute, or to prosecute and give evidence, or to give evidence (as the case may be).

A notice of each recognizance (Form 42) shall at the same time be given to the person bound thereby.

If a witness refuses to enter into a recognizance the Court may,

by warrant (Form 43), commit him to prison, there to remain until after the trial of the accused, unless in the meantime he duly enters into a recognizance.

But if afterwards, from want of sufficient evidence or other cause, the accused is not either committed for trial or held to bail, the witness shall be discharged from custody by direction of the Court.

Remand.

300. If from the absence of witnesses or any other reasonable cause the Court considers it necessary or advisable to defer or adjourn the preliminary examination, the Court may, by warrant (Form 44), from time to time remand the accused for such time as seems reasonable, not exceeding 14 days, to some prison or other place of security:

Or if the remand is for not more than eight days the Court may, by word of mouth, order the officer or person in whose custody the accused is, or any other fit officer or person, to continue or keep the accused in his custody, and to bring him up at the time appointed for commencement or continuance of the examination.

During the period of remand the Court may, nevertheless, order the accused to be brought before it.

Instead of detaining the accused in custody during the period of remand the Court may discharge him, on his entering into a recognizance, with or without a surety or sureties as the Court may think fit (Form 45), for his appearance.

A notice of each recognizance (Form 46) shall at the same time be given to each person bound thereby.

Commitment.

301. When all the evidence adduced at the preliminary examination on the part of the prosecution has been heard, if the Court is of opinion that it is not sufficient to put the accused on his trial, the Court shall forthwith order him, if in custody, to be discharged as to the particular charge in question.

If, on the contrary, the Court is of opinion that the evidence is sufficient to put the accused on his trial, the Court shall either by warrant (Form 47) commit him to prison, there to remain till delivered by due course of law, or admit him to bail.

Bail.

302. Where the accused is charged with—

Felony;

Assault with intent to commit felony;

Attempt to commit felony;

Obtaining or attempting to obtain property by false pretences;

Receiving stolen property, or property obtained by false pretences;

Perjury, or subornation of perjury;

Concealing the birth of a child by secret burying or otherwise;

Wilful or indecent exposure of the person;

Riot;

Assault on a constable or officer of the Court in the execution of his duty, or on any person acting in his aid;

Neglect or breach of duty as a constable or officer of the Court;

it shall be in the discretion of the Court to admit him to bail, either in the first instance, instead of committing him to prison for trial, or at any time after his commitment and before trial.

Where the accused is charged with any indictable misdemeanour other than those hereinbefore described the Court shall ordinarily admit him to bail.

303. A person charged with murder or treason can be admitted to bail by the Judge of the Supreme Court only.

304. The Judge of the Supreme Court may, on good grounds, admit any person to bail, although the Provincial Court before which the charge is made does not think fit to do so.

305. The accused who is to be admitted to bail is to produce such surety or sureties as, in the opinion of the Court, will be sufficient to ensure his appearance at the time and place when and where he is to be tried, and with such surety or sureties to enter into a recognizance accordingly (Form 45).

A notice of each recognizance (Form 46) is at the same time to be given to each person bound thereby.

Privileges of Accused.

306. At any time after the preliminary examination has been completed the accused is entitled to have copies of the depositions on which he has been committed for trial, or held to bail, on payment of a reasonable sum, not exceeding 6*d.* for every 100 words, or gratis, if the Court so directs.

The Court shall, at the time of commitment or of holding to bail, inform the accused of his rights in this respect.

Preparations for Trial.

307. The written charge (if any), the depositions, the statement of the accused, the recognizances of prosecutor and witnesses, and the recognizance of bail (if any) shall be carefully transmitted in proper time to the Court at which the trial is to be held

Indictment.

308. A trial before the Judge or an officer of the Supreme Court, with a jury, and the proceedings before and after trial

relative thereto, shall be conducted as nearly as may be as a criminal trial before a Judge with a jury and the corresponding proceedings is and are conducted in England.

Other criminal trials, with or without a jury, or with Assessors, and the proceedings before and after trial relative thereto, shall be conducted in like manner, *mutatis mutandis*.

309. In criminal cases to be tried on indictment before the Judge or Assistant Judge of the Supreme Court, whether with or without a jury, the depositions when completed shall forthwith be delivered to the Law Secretary as prosecutor on behalf of the Crown, who shall thereupon, in person or by some proper representative appointed by him in any case by writing under his hand, take all proper steps for indicting and bringing to trial the accused, and conduct the prosecution in Court at the trial; and no such prosecution shall be under the direction or conduct of any private prosecutor.

Any private prosecutor may, however, retain any member of the English, Irish, or Scottish Bar, or any regular and duly qualified advocate of a foreign nationality, to assist in the prosecution; and such barrister or advocate may, with the assent of the prosecutor for the Crown, appear in Court at the trial and take part in the prosecution; but no such prosecution shall be withdrawn or abandoned without the express consent of the Law Secretary as prosecutor for the Crown, or of his representative, given in open Court.

III.—*Summary Proceedings.*

310. The following rules (under the sub-heading "Summary Proceedings") apply exclusively to cases where the charge is to be heard and determined not on indictment, but in a summary way.

Hearing.

311. Where the accused comes before the Court on summons or warrant, or otherwise, either originally or on adjournment, then if the prosecutor, having had due notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear in person or by counsel or attorney, the Court shall dismiss the charge, unless for some reason it thinks proper to adjourn or further adjourn the hearing, with or without imposing any terms.

312. In case of adjournment the Court may commit the accused in the meantime to prison or to such other custody as it thinks fit, or may discharge him on his entering into a recognizance (Form 45), with or without a surety or sureties, at the discretion of the Court, for his appearance at the time and place of adjournment.

A notice of each recognizance (Form 46) is at the same time to be given to each person bound thereby.

313. If both parties appear in person, or by counsel or attorney, the Court shall proceed to hear and finally determine the charge.

314. The prosecutor shall be at liberty to conduct the charge and to have the witnesses examined and cross-examined by counsel or attorney on his behalf.

315. The accused shall be admitted to make his full answer and defence to the charge, and to have the witnesses examined and cross-examined by counsel or attorney on his behalf; and if he does not employ counsel or attorney, he shall, at the close of the examination of each witness for the prosecution, be asked by the Court whether he wishes to put any questions to the witness.

If he puts any question to a witness, the witness may be re-examined for the prosecution.

316. The room or place in which the Court sits to hear and determine the charge is an open and public Court to which the public generally may have access as far as the room or place can conveniently contain them.

317. The substance of the charge shall be stated to the accused, and he shall be asked if he has any cause to show why he should not be convicted.

If he thereupon admits the truth of the charge and does not show sufficient cause why he should not be convicted, the Court may convict him accordingly.

If he does not admit the truth of the charge, the Court shall proceed to hear the prosecutor and such witnesses as he examines and such other evidence as he adduces in support of his charge.

On the termination of the whole evidence in support of the charge, if it appears to the Court that a *primâ facie* case is made out against the accused, he shall be asked by the Court if he wishes to say anything in answer, or has any witnesses to examine or other evidence to adduce in his defence; and the Court shall then hear the accused and his witnesses and other evidence, if any.

318. If the accused adduces any evidence in his defence the prosecutor may adduce evidence in reply thereto; but the prosecutor shall not in any case be allowed to make any observations by way of reply to the evidence adduced by the accused, nor shall the accused in any case be allowed to make any observations on evidence adduced by the prosecutor in reply.

319. A variance between the charge and the evidence adduced in support of it as to the time at which the alleged crime or offence was committed is not material if it is proved that the charge was in fact made within the time (if any) limited by law for the making thereof.

But if any variance between the charge and the evidence appears to the Court to be such that the accused has been thereby deceived or misled, the Court may adjourn the hearing.

Adjournment.

320. At any time before or during the hearing of the charge the Court may, in its discretion, for any good cause recorded in the minutes of proceedings adjourn the hearing.

An adjournment ordered for any cause shall be made to a certain time and place, to be at the time of the adjournment appointed and stated in the presence and hearing of the parties or their respective counsel or attorneys.

During the period of adjournment the Court may in its discretion, according to the nature and circumstances of each case, either suffer the accused to go at large or commit him by warrant (Form 44) to such prison or other place of security, or to such other safe custody, as the Court thinks fit, or may discharge him on his entering into a recognizance (Form 45), with or without a surety or sureties, at the discretion of the Court, for his appearance at the time and place of adjournment.

A notice of each recognizance (Form 46) is at the same time to be given to each person bound thereby.

If at any time and place of adjournment of a hearing which has once begun, the accused does not appear in person or by counsel or attorney, the Court may in its discretion proceed with the further hearing as if the accused were present.

Decision.

321. The Court having heard what each party has to say as aforesaid, and the witnesses, and the evidence adduced, shall consider the whole matter and finally determine the same, and shall either convict the accused or dismiss the charge.

Conviction.

322. In case of conviction a minute thereof shall be made, and the conviction (Forms 48, 49) shall afterwards be drawn up in form to be preserved among the records of the Court.

Dismissal.

323. In case of dismissal of the charge the Court may, if it thinks fit, on being requested so to do, make an order of dismissal (Form 55) and give the accused a certificate thereof (Form 56), which certificate shall on being produced, without further proof, be a bar to any subsequent charge for the same matter against the same person.

Costs.

324. In case of conviction the Court may, in and by the conviction, award and order that the person convicted do pay to the

prosecutor such costs as seem just and reasonable, to be specified in the conviction.

325. In case of dismissal the Court may, in and by the order of dismissal, award and order that the prosecutor do pay to the accused such costs as seem just and reasonable, to be specified in the order of dismissal.

Execution of Conviction or Order of Dismissal.

326. Where a conviction does not adjudge the payment of money, but adjudges that the offender be imprisoned, the Court shall issue a warrant of commitment (Form 50) accordingly.

327. Where a conviction or order of dismissal adjudges any money to be paid by any person convicted or any prosecutor for penalty, compensation, costs, charges, or otherwise, the money to be paid may be levied on the goods of the person adjudged to pay the same by distress and sale under warrant (Forms 52, 57).

328. If the officer having the execution of the warrant returns (Form 53) that he could find no goods or no sufficient goods whereon to levy the money mentioned in the warrant, together with costs, the Court may by warrant (Forms 54, 58) commit the person adjudged to make the payment to prison for not more than two months unless the money adjudged to be paid, and all costs and charges of the distress, commitment, and conveyance to prison, to be specified in the warrant of commitment, are sooner paid.

329. Where it appears to the Court that such distress and sale of goods as aforesaid would be ruinous to the person ordered to pay the money and his family, or (by confession of that person or otherwise) that he has no goods whereon a distress may be levied, then the Court, if it thinks fit, may, instead of issuing a warrant of distress, commit him to prison, with or without hard labour, for not more than two months, unless the money adjudged to be paid, and all costs and charges of the commitment and conveyance to prison, to be specified in the warrant of commitment, are sooner paid (Form 51).

330. Any person against whom a warrant of distress issues may pay or tender to the officer having the execution of the warrant the sum therein mentioned, together with the amount of the expenses of the distress up to the time of such payment or tender, and thereupon the officer shall cease to execute the same.

331. Any person committed for non-payment may pay the sum mentioned in the warrant of commitment, together with the amount of costs and charges therein mentioned (if any), to the person in whose custody he is, who shall thereupon discharge him if he is in custody for no other matter.

XIV.—APPEAL TO SUPREME COURT IN CRIMINAL CASES.

332. The application for a special case, on a summary conviction, shall be made within 48 hours after the sentence.

333. The application for a special case shall state shortly the grounds on which the appellant considers the conviction erroneous in point of law, and may contain any argument in support of the appeal, or may include an application that time be allowed for the filing of such an argument, which may be allowed accordingly.

334. The special case, when granted, shall be stated within ten days after application for the same, or after expiration of the time allowed for filing such argument.

335. A copy of the appellant's application for a special case, and of any argument filed by him in support thereof, shall be annexed to the special case.

336. The appellant shall give security to the satisfaction of the Court, by recognizance, deposit or otherwise, to prosecute the appeal without delay, and to submit to the judgment of the Supreme Court and to pay any costs awarded against him.

337. The appellant, if in custody, shall be liberated on his further giving security to the satisfaction of the Court, by recognizance, deposit or otherwise, to appear and receive judgment at an appointed time and place unless the conviction is set aside by the Supreme Court.

338. The prosecutor shall be entitled, on payment of the proper fees, to have a copy of any special case or other documents sent to the Supreme Court on any appeal in a criminal case.

XV.—GENERAL PROVISION (CIVIL AND CRIMINAL MATTERS).

339. In all matters not in these Rules expressly provided for, the procedure of the Superior Courts and of Justices of the Peace in England in like cases shall, as far as possible, be followed, save that with respect to matters arising under the Admiralty or other special jurisdiction, the procedure of the Courts having such jurisdiction in England shall, as far as possible, be followed.

340. Notices, summonses, warrants, decrees, orders, and other documents issuing from the Court shall be sealed with the seal of the Court.

341. In these Rules the words "oath" and "affidavit," and words referring thereto, or to swearing, include affirmation and declaration and refer thereto, or to the making of an affirmation or declaration, where an affirmation or declaration is admissible in lieu of an oath or affidavit.

Terms used in these Rules have the same meanings as in the Order in Council under which these Rules are framed.

342. The Forms appended to these Rules may be used with such variations as the circumstances of each case require.

343. The Fees specified in the List appended to these Rules shall be paid.

The Court may, however, remit any such fee, wholly or in part, if it thinks fit.

344. These Rules shall commence and have effect at the same time as the Order in Council under which they are framed.

EDMUND HORNBY,
Judge.

Approved:
RUSSELL.

FORMS

1. *Issue for Decision of Questions of Fact without formal Suit.*

In Her Britannic Majesty's Court at [Canton],
[Saturday] the [ ] day of [ ], 18 .
Between A.B. and C.D.

This Court has ordered that the above-named A.B. of [gentleman] and the above-named C.D. of merchant], may proceed to the trial of the questions of fact to be determined between them without any petition presented or other pleading.

This Court, therefore, now further orders that the following questions be tried:

1. Whether, &c.
2. Whether, &c.

The said A.B. maintaining the affirmative, and the said C.D. the negative, thereof respectively.

(Seal.)

2. *Summons in Summary Procedure for Claim under* 100 *dollars.*

In Her Britannic Majesty's Court at [Canton].
[Saturday] the [ ] day of [ ], 18 .

Between A.B. .. .. Plaintiff.
and
C.D. .. .. Defendant.
or
In the matter of E.F., an infant].

To C.D., of , [gentleman] the above-named defendant.

You are hereby commanded, in Her Majesty's name, to attend this Court at [ ] on [ ] the [ ] day of [ ] at o'clock in the noon on the hearing of a claim [or an application] on the part of A.B., of [merchant], the above-named plaintiff [state the precise nature and particulars of the claim, and the amount sought to be recovered, or the precise object of the application, as the case may be].

(Seal.)

The following note is to be added to the original summons and when the time is altered by indorsement, the indorsement is to be referred to as below:

NOTE.—If you do not attend either in person or by counsel or attorney at the time and place above-mentioned [or at the place above-mentioned at the time mentioned in the indorsement hereon], such order will be made and such proceedings taken as the Court may think just and expedient.

3. *Summons to Administrator or Executor for Summary Administration.*

In Her Britannic Majesty's Court at [Canton].

[Saturday] the [ ] day of [ ], 18 .

In the matter of the property of A.B., late of , deceased.

Between C.D. .. .. Plaintiff,

and

E.F. .. .. Defendant.

To E.F., of the above-named defendant, executor of the above-named A.B.

On the application of C.D., of , Esq., the above-named plaintiff, who claims to be a creditor of the said A.B.:

You are hereby commanded, in Her Majesty's name, to attend this Court at , on [ ] the [ ] day of [ ] at [ ] o'clock in the [ ] noon, and show cause, if you can, why an order for the administration of the property of the said A.B., under the direction of this Court, should not be granted.

(Seal.)

The following note is to be added to the original summons, and when the time is altered by indorsement, the indorsement is to be referred to as below:

NOTE.—If you do not attend either in person or by counsel or attorney at the time and place above-mentioned [or at the place above-mentioned at the time mentioned in the indorsement hereon], such order will be made and such proceedings taken as the Court may think just and expedient.

4. *Special Summons on Bill of Exchange or Promissory Note.*

In Her Britannic Majesty's Court at [Canton].

[Thursday] the [ ] day of [ ], 18 .

Between A.B. .. .. Plaintiff,

and

C.D. .. .. Defendant.

To C.D., of , the above-named defendant.

You are hereby commanded, in Her Majesty's name, to attend this Court within seven days after service of this summons on you, inclusive of the day of service, and obtain leave from this Court to defend this suit; otherwise A.B., of , the above-named plaintiff, will be entitled, as of course, to an immediate absolute order against you.

(Seal.)

Indorsement on Summons.

The plaintiff claims [ ] pounds sterling, principal and interest [or balance of principal and interest] due to him as the payee [or indorsee] of a bill of exchange or promissory note, of which the following is a copy:

Here copy bill or note and all indorsements on it.

And if the amount thereof be paid to the plaintiff within [ ] days from the service hereof, further proceedings will be stayed.

NOTICE.

If the defendant does not, within seven days after having been served with this summons, inclusive of the day of service, obtain leave from the Court to defend this suit, the plaintiff will be entitled, as of course, at any time after the expiration of those seven days, to an immediate absolute decree, from which there is no appeal, for any amount not exceeding the sum above claimed, and such sum as may be fixed by the Court for costs.

Leave to defend the suit may be obtained on application *ex parte* to the Court, supported by evidence on oath, showing that there is a defence to the suit on the merits, or that it is reasonable that the defendant should be allowed to defend the suit; or on payment into Court of the sum hereon indorsed.

5. *Petition.*

In Her Britannic Majesty's Court at [Canton].

Between A.B. .. .. Plaintiff,
and
C.D. and .. . .. } Defendants.
E.F .. ..

To X.Y., Esquire, Her Britannic Majesty's Consul at [Canton].

The petition of A.B., of [merchant], the above-named plaintiff,
Shows as follows:

1. [On the 1st day of June, 1859, the defendant, &c.]
2. [On the next day the plaintiff wrote and sent a letter to the defendant, the material parts of which were as follows, &c.]
3. .....
4. .....

The plaintiff therefore prays—

1. [That an account may be taken of what is due for principal and interest on, &c.]
2. [That the defendant may be decreed to pay to the plaintiff, the amount which shall be so found due within one calendar month, &c.]
3. That the plaintiff may have such further or other relief as the nature of the case may require.

The defendants to this petition are—
C.D. of , [merchant],
E.F., of , [widow].

A.B.
[or A.B., the plaintiff,
by L.M., his attorney].

6. *Answer.*

In Her Britannic Majesty's Court at [Canton].

Between A B. .. .. Plaintiff,
and
C.D. and .. .. } Defendants.
E.F. .. ..

The answer of C.D., one of the above-named defendants, to the petition of the above-named plaintiff.

In answer to the said petition I, C.D., say as follows:

1. .....
2. .....
3. .....

C.D.
[or C.D., the defendant,
by N O., his attorney.]

7. *Notice of Transfer of Cause to Hearing Paper*

In Her Britannic Majesty's Court at [Canton].

Saturday, the [ ] day of [ ], 18 .

Between A B. .. .. .. Plaintiff,
and
C D and .. .. .. } Defendants.
E.F. .. ..

To A.B the above-named plaintiff
[or
To C.D., one of the above-named defendants].

This cause will be transferred from the General Hearing List to the Hearing Paper for the day of 18 and will come on to be heard in its turn on that day, if the business of the Court permits, or otherwise on some adjournment day, of which you will receive no further notice.

You are desired to pay attention to the following directions:-

If the plaintiff fails to attend in person or by counsel or attorney on the day appointed, the case if called on may be struck out, and the plaintiff will be liable to pay to the defendant such costs as may be fixed by the Court. Also, the case must be set down in the General Hearing List afresh, by which the plaintiff will incur delay and expense.

If the defendant fails to attend in person or by counsel or attorney on the day appointed, the case if called on may, if the Court so directs, be heard and determined in his absence on the evidence adduced on behalf of the plaintiff, and the Court will issue execution on the judgment so obtained.

If either party has any application to make to the Court to postpone the hearing, it should be made as soon as possible, on application for a summons for that purpose, and if the application is based on any matter of fact, as the absence of a material witness or the like, the facts relied on must be set out and verified in one or more affidavit or affidavits filed in the Court before such application.

If either party considers that the questions between the parties are not fairly raised or put in issue by the pleadings, or thinks that the questions raised are obscure, and that he is prejudiced thereby, he may apply to the Court on summons to settle issues, and such application should be made at once.

The parties are warned that at the hearing they are required to adduce all the testimony, written and oral, which each of them desires to rely on, in support of his own case and in contradiction of that of his opponent. The proof will be required at the hearing and not on a subsequent day, and parties failing to bring their testimony forward at the proper time may find themselves absolutely precluded from adducing it at all, or at best only allowed to do so on payment of substantial costs to the other side, and on such other terms as the Court thinks fit to impose.

Parties desirous to enforce the attendance of witnesses should apply at once to the Court to issue to or to procure from the national authority of the witness required a summons for his attendance.

It is indispensable that the application should be made so as to allow time for a reasonable notice to the witness required.

If the witness is required to bring books or papers, they must be particularized in the summons sufficiently to enable him clearly to understand what is meant.

Any party summoning a witness through the Court, thereby becomes liable to pay such witness a reasonable sum of money to be summarily fixed by the Court for his expenses and loss of time.

The Court will not *enforce* the attendance of a witness unless such sum has been deposited in the Court.

If either party desires to use in evidence at the hearing any book, paper, or document in the possession or power of the other party he must give the other party reasonable notice in writing to produce it at the hearing, failing which he will not be allowed to give any secondary evidence of its contents.

No person is excluded from giving evidence by reason of interest or relationship. The parties themselves, their wives, relations, partners, and servants respectively are competent witnesses.

(Seal.)

8. *Motion Paper.*

In Her Britannic Majesty's Court at [Canton].

Between A.B. .. .. Plaintiff,
and
C.D. .. .. Defendant.

The plaintiff [or as the case may be] moves that [here state the terms of the motion].

9. *Affidavit of Attesting Witness in proof of the due Execution of a Will or Codicil dated after 31st December*, 1837.

In Her Britannic Majesty's Court at [Canton].
In the matter of A.B., deceased.

I, C.D., of , make oath and say that I am one of the subscribing witnesses to the last will [or codicil, as the case may be] of A.B., late of , deceased, the said will [or codicil] being now hereto annexed, bearing date , and that the testator executed the said will [or codicil] on the day of the date thereof, by signing his name at the foot or end thereof [or in the testimonium

clause thereof, or in the attestation clause thereto, as the case may be], as the same now appears thereon* in the presence of me and of , the other subscribed witness thereto, both of us being present at the same time, and we thereupon attested and subscribed the said will [or codicil] in the presence of the testator.

C.D.

Sworn at , this
day of
18 , before me,
X.Y.

10. *Oath for Executor.*

In Her Britannic Majesty's Court at [Canton].
In the matter of A.B., deceased.

I, C.D., of† , make oath and say that I believe the paper writing [or the paper writings] hereto annexed and marked by me‡ to contain the true and original last will [or last will with codicils] of A.B., late of , deceased, and that I am the sole executor [or one of the executors] therein named, [or executor according to the tenor thereof, executor during life, executrix during widowhood, or as the case may be], and that I will faithfully administer the personal property of the testator by paying his just debts and the legacies given by his will [or will and codicils], so far as his personal property shall extend and the law bind me; that I will exhibit an inventory, and render an account of my executorship, whenever lawfully required; that the testator died at on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of , to the best of my knowledge, information, and belief.

C.D.

Sworn at , this
day of
18 , before me,
E.F.

11. *Oath for Administrator with Will annexed.*

In Her Britannic Majesty's Court at [Canton].
In the matter of A.B., deceased.

I, C.D., of , make oath and say that I believe the paper writing [or the paper writings] hereto annexed, and marked by me§ to contain the true and original last will [or last will with codicils] of A.B., late of , deceased; that the executor therein named is dead without having taken probate thereof [or as the fact may be]; that I am the residuary legatee in trust named therein [or as the fact may be, stating the relationship, if any, of the deponent to the testator]; that I will faithfully administer the personal property of the testator, by paying his just debts and the legacies given by his will [or will and codicils], so far as his personal property shall extend and the law bind me, and distributing the residue of his personal property according to law; that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the testator died at on the , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court,

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* If the signature is in the testimonium clause or attestation clause, insert "intending the same for his final signature to his will."

† Insert besides the name, &c., of the deponent his relationship, if any, to the testator.

‡ Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

Where more executors than one are appointed, and all are not sworn, a memorandum should be made in the margin of the oath that power is to be reserved to the other executors or executor, or that they have or he has renounced.

§ Each testamentary paper is to be marked by the persons sworn and the person administering the oath.

and that the whole of his personal property does not amount in value to the sum of , to the best of my knowledge, information, and belief.

C.D.

Sworn at this day of 18 , before me, E.F.

12. *Oath for Administrator (not with Will annexed).*

In Her Britannic Majesty's Court at [Canton].
In the matter of A.B., deceased.

I, C.D., of , make oath and say that A.B., late of , deceased, died intestate, a bachelor, without parent, brother, or sister, uncle or aunt, nephew or niece, and that I am his lawful cousin german and one of his next of kin [this must be altered in accordance with the circumstances of the case]; that I will faithfully administer the personal property of the deceased, by paying his just debts, and distributing the residue of his property according to law; that I will exhibit an inventory and render an account of my administration whenever lawfully required; that the deceased died at on the day of , 18 ; that at the time of his death he had his fixed place of abode at , within the jurisdiction of this Court; and that the whole of his personal property does not amount in value to the sum of , to the best of my knowledge, information, and belief.

C.D.

Sworn at , this day of 18 , before me, E.F.

13. *Probate.*

In Her Britannic Majesty's Court at [Canton].

Be it known, that on the day of , 18 , the last will [or the last will with codicils] (a copy whereof is hereto annexed) of A.B., late of , deceased, who died on , at , and who at the time of his death had his fixed place of abode at , within the jurisdiction of this Court, was proved and registered in this Court; and that the administration of the personal property of the said deceased was granted by this Court to C.D., the sole executor [or as the case may be] named in the said will, he having been first duly sworn.

X.Y.,
H.B.M. Consul at [Canton].
(Seal.)

To be written in margin. Sworn under and that the testator died on or about the day of , 18 .

14. *Letters of Administration with Will annexed.*

In Her Britannic Majesty's Court at [Canton].

Be it known, that A.B., late of , deceased, who died on the day of , 18 , at , and who had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, made and duly executed his last will [or his last will with codicils thereto], and did therein name [according to the facts].

And be it further known, that on the day of 18 , letters of administration with the said will [and codicils] annexed of the personal property of the deceased were granted by this Court to C.D. [insert the character in which the grant is taken], he having been first duly sworn.

X.Y.,
H.B.M. Consul at [Canton].
(Seal.)

Sworn under and that the testator died on or about the day of , 18 .

15. *Letters of Administration (not with Will annexed).*

In Her Britannic Majesty's Court at [Canton].

Be it known, that on the day of , 18 , letters of administration of the personal property of A.B., late of , deceased, who died on , 18 , at , intestate, and who had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, were granted by this Court to C.D., of , the widow [or as the case may be] of the said intestate, she having been first duly sworn.

X.Y.,
H.B.M. Consul at [Canton].
(Seal.)

Sworn under and that the intestate died on or about the day of , 18 .

16. *Double Probate.*

In Her Britannic Majesty's Court at [Canton].

Be it known, that on the day of , 18 , the last will [with codicils] of A.B., late of , deceased, who died on , 18 , at , and who at the time of his death had his fixed place of abode at , within the jurisdiction of this Court, was proved and registered in this Court, and that administration of his personal property, and any way concerning his will, was granted by this Court to C.D., one of the executors named in the said will [or codicil], he having been first duly sworn, power being reserved of making the like grant to E.F., the other executor named in the said will. And be it further known, that on the day of , 18 , the said will of the said deceased was also proved in this Court, and that the like administration was granted by this Court to the said E.F., he having been first duly sworn.*

X.Y.,
H.B.M. Consul at [Canton].
(Seal.)

Sworn under and that the testator died on or about the day of , 18 .

17. *Letters of Administration de bonis non.*

In Her Britannic Majesty's Court at [Canton].

Be it known, that A.B., late of , deceased, died on , 18 , at , intestate, and had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, and that since his death, namely, on the day of , 18 , letters of administration of his personal property were granted by this Court to C.D. [insert the relationship or character of administrator] (which letters of administration now remain on record in this Court) who, after taking such administration upon him, partly administered the personal property of the deceased, and afterwards, namely, on , died, leaving part thereof unadministered, and that on the day of , 18 , letters of administration of the personal property so left unadministered were granted by this Court to , he having been first duly sworn.

X.Y.,
H.B.M. Consul at [Canton].
(Seal.)

Sworn under and that the intestate died on the day of , 18 .

18. *Administration Bond.*

Know all men by these presents, that we, A.B., of , C.D., of , and E.F., of , are jointly and severally bound unto G.H., the judge of Her Britannic Majesty's Supreme Court for China and Japan, in the sum of , to be paid to the said G.H., or the judge of the said Court for the time being, for which payment we bind ourselves and each of us, for

* Former grant, January, 18 , under the same sum

the whole, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated the day of , 18 .

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

The condition of the above-written obligation is such, that if the above-named A.B., the intended administrator of the personal property of I.J., late of , deceased, who died on the day of [left unadministered by], do make a true and perfect inventory of the personal property of the deceased [so left unadministered], which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit into Her Britannic Majesty's Supreme Court or Her Britannic Majesty's Court at [Canton], whenever required by law so to do; and the same personal property and all other the personal property of the deceased, which shall at any time after the making and exhibition of such inventory, come into the possession of the said A.B., or of any person for [him], do well and truly administer according to law; (that is to say) do pay the debts which the deceased owed at [his] death, and all the residue of the said personal property do deliver and pay to such person or persons as shall be entitled thereto under the Act of Parliament intituled "An Act for the better settling of Intestates' Estates;" and further, do make a true and just account of [his] administration whenever lawfully required; and in case it shall hereafter appear that any will was made by the deceased, and the executor or executors therein named do exhibit the same for probate, then if the said A.B., being thereunto required, do duly render and deliver up the letters of administration granted to him, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

19. *Administration Bond for Administrators with Will annexed.*

Know all men by these presents, that we, A.B., of , C.D., of , and E.F., of , are jointly and severally bound unto G.H., the judge of Her Britannic Majesty's Supreme Court for China and Japan, in the sum of , to be paid to the said G.H., or the judge of the said Court for the time being, for which payment we bind ourselves and each of us, for the whole, our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated the day of , 18 .

A.B. (L.S.)
C.D. (L.S.)
E.F. (L.S.)

The condition of the above-written obligation is such, that if the above-named A.B., the intended administrator with will annexed of the personal property of I.J., late of , deceased, who died on the day of , do make a true and perfect inventory of the personal property of the deceased [left unadministered by], which has or shall come into [his] possession, or into the possession of any person for [him], and the same so made do exhibit into Her Britannic Majesty's Supreme Court or Her Britannic Majesty's Court at [Canton], whenever required by law so to do, and the same personal property [so left unadministered] and all the other personal property of the deceased which shall at any time after the making and exhibition of such inventory come into the possession of the said A.B., or of any person for [him], do well and truly administer (that is to say) do pay the debts which the deceased owed at [his] death, and then the legacies given by the said will annexed to the said letters of administration, as far as such personal property will extend, and the law bind [him], and all the residue of the said personal property shall deliver and pay unto such person or persons as shall be by law entitled thereto, and further, do make a true and just account of [his] said administration whenever lawfully required, then this obligation shall be void, and otherwise shall remain in full force.

Signed, sealed, and delivered before this Court.

(Seal.)

20. *Declaration of the Personal Property of a Testator or an Intestate.*

In Her Britannic Majesty's Court at [Canton].

A true declaration of all the personal property of A.B., late of , deceased, who died on the day of , 18 , at , and had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, which have at any time since his death come to the possession or knowledge of C.D., the administrator with the will annexed of the said A.B. [or administrator, as the case may be], made and exhibited upon and by virtue of the oath [or solemn affirmation] of the said C.D., as follows:

First, I declare that the deceased was at the time of his death possessed of or entitled to .. ..

The details of the deceased's property must be here inserted, and the value inserted opposite to each particular.]

Lastly, I say that no personal property of the deceased has at any time since his death come to my possession or knowledge, save as is hereinbefore set forth.

C.D.

On the day of , 18 , the said C.D. was duly sworn to [or solemnly affirmed] the truth of the above-written inventory,

Before me,

[person authorised to administer oaths].

21. *Justification of Sureties.*

In Her Britannic Majesty's Court at [Canton].

In the matter of A.B., deceased.

We, C.D., of , and E.F., of , severally make oath and say, that we are the proposed sureties in the penal sum of , on behalf of G.H., the intended administrator of the personal property of A.B., late of , deceased, for his faithful administration thereof; and I, the said C.D. for myself, make oath and say, that I am, after payment of all my just debts, well and truly worth in money and effects the sum of ; and I the said E.F., for myself, make oath and say, that I am, after payment of all my just debts, well and truly worth in money and effects the sum of .

Sworn by the deponents, C.D., and E.F., at , this day of , 18 . } C.D. E.F.

Before me,

X.Y.

22. *Renunciation of Probate and Administration with Will annexed.*

In Her Britannic Majesty's Court at [Canton].

In the matter of A.B., deceased.

Whereas A.B., late of , deceased, died on the day of , 18 , at , having had at the time of his death his fixed place of abode at , within the jurisdiction of this Court; and whereas he made and duly executed his last will dated the day of , 18 ,* and thereof appointed C.D., executor and residuary legatee in trust [or as the case may be]:

Now I, the said C.D., do hereby declare, that I have not intermeddled in the personal property of the deceased, and will not hereafter intermeddle therein with intent to defraud creditors, and further do hereby expressly renounce all right to probate of the said will [and codicils, if any], and to administration with the said will and codicils, if any, annexed, of the personal property of the deceased.

In witness whereof I have hereto set my hand and seal, this day of , 18 .

C.D. (L.S.)

Signed, sealed, and delivered by the above-named C.D., in the presence of,

G.H.

23. *Renunciation of Administration.*

In Her Britannic Majesty's Court at [Canton].

Whereas A.B., late of , deceased, died on the day of , 18 ,

* If there are codicils, their dates should be also inserted.

at , intestate, a widower, having had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, and whereas I, C.D., of , am his lawful child, and his only next of kin [or as the case may be]:

Now I, the said C.D., do hereby declare that I have not intermeddled in the personal property of the deceased, and further do hereby expressly renounce all right to administration thereof.

In witness whereof I have hereto set my hand and seal this day of , 18 .

C.D. (L.S.)

Signed, sealed, and delivered by the said C.D., in the presence of,

G.H.

24. *Order to a Person to bring in a Paper purporting to be Testamentary.*

In Her Britannic Majesty's Court at [Canton].

The day of , 18 .

To C.D., of .

Whereas it appears by a certain affidavit filed in this Court on the day of , 18 , and made by , of , that a certain original paper, being, or purporting to be, testamentary, namely [here describe the paper], bearing date the day of , 18 , is now in your possession or under your control:

Now this is to command you, in Her Majesty's name, that within eight days after service hereof on you, inclusive of the day of such service, you do bring into and leave in this Court the said original paper, or in case the said original paper be not in your possession or under your control, that you, within eight days after the service hereof on you, inclusive of the day of such service, do file in this Court an affidavit to that effect, and therein set forth what knowledge you have of and respecting the said paper.

(Seal.)

25. *Affidavit of Handwriting.*

In Her Britannic Majesty's Court at [Canton].

In the matter of C.D., deceased.

I, A.B., of , make oath and say. I knew and was well acquainted with C.D., late of , deceased, who died on the day of , 18 , at , for many years before and down to his death, and that during that time that I have frequently seen him write and sign his name, whereby I have become well acquainted with his handwriting and signature, and having now with care and attention inspected the paper writing hereto annexed, purporting to be the last will of the said C.D., beginning thus , ending thus , dated the day of , and signed thus, C.D., I say that I believe [the whole body and contents of the said will, together with] the signature C.D. thereto, to be of the handwriting of the said C.D., deceased.

A.B.

Sworn at this day of , 18 , before me,

E.F.

26. *Affidavit of Finding and Condition of Will.*

In Her Britannic Majesty's Court at [Canton].

In the matter of E.F., deceased.

I. A.B., of , make oath and say that I am the sole executor named, in the paper writing hereto annexed, purporting to be the last will of E.F., late of , deceased (who died on the day of , 18 , at , and had at his death his fixed place of abode at , within the jurisdiction of this Court), the said will bearing date the day of , beginning thus ending thus , and being signed thus, E.F., and that [here describe the

finding of the will, and the various obliterations, interlineations, erasures, and alterations (if any), and the general condition of the will, and state any other matters requiring to be accounted for, and clearly trace the will from the possession of the deceased in his lifetime up to the time of the making of this affidavit]; and I lastly say that the same paper writing is now in all respects in the same condition as when found [or as the case may be].

A.B.

Sworn this day of 18 , before me, I.J.

27. *Affidavit of Search.*

In Her Britannic Majesty's Court at [Canton].

In the matter of C.D., deceased.

I, A.B., of , make oath and say that I am the sole executor named in the paper writing hereto annexed, purporting to be the last will of C.D., late of , deceased (who died on the day of , 18 , at , and had at the time of his death his fixed place of abode at , within the jurisdiction of this Court), the said will beginning thus, " ," ending thus, "In witness whereof, I have hereunto set my hand this day of , in the year of our Lord one thousand eight hundred and fifty-four," [or as the case may be], and being signed thus, "C.D." And referring particularly to the fact that the blank spaces originally left in the said will for the insertion of the day and the month of the date thereof have never been supplied [or that the said will is without date, or as the case may be], I further say that I have made inquiry of [E.F., the solicitor of the said deceased], and that I have also made diligent and careful search in all places where the said deceased usually kept his papers of moment, in order to ascertain whether he had or had not left any other will, but that I have been unable to discover any other will. And I lastly say that I believe the deceased died without having left any will, codicil, or testamentary paper whatever other than the said will by me hereinbefore deposed to.

A.B.

Sworn at , this day of , 18 , before me, G.H.

This form of affidavit is to be used when it is shown by affidavit that neither the subscribing witnesses nor any other person can depose to the precise time of the execution of the will.

28. *Notice to Prohibit Grant of Probate or Administration.*

In Her Britannic Majesty's Court at [Canton].

In the matter of A.B., deceased

Let nothing be done in the matter of A.B., late of , deceased, who died on the day of , 18 , at , and had at the time of his death his fixed place of abode at , within the jurisdiction of this Court, without warning being given to C.D., of , [or to E.F., of ,] the attorney of G.H., of .

Dated this day of , 18 .

(Signed) C.D., of
[or E.F., of , the attorney of G.H., of

29. *Warning to Person filing Notice to Prohibit Grant.*

In Her Britannic Majesty's Court at [Canton].

In the matter of A.B., late of , deceased.

To C.D., of [or to E.F., of , attorney of G.H., of].

You are hereby warned, within 6 days after the service of this warning upon you, inclusive of the day of such service, to come to this Court, and file therein an affidavit setting forth your [or your client's] interest in this matter; and in default

of your so doing this Court will proceed to all such acts and things as shall be needful to be done in this matter.

NOTE.—This warning is issued at the instance of R.S., of [here state what interest R.S. has, and if under a will or codicil, state its date].

(Seal.)

30. *List of Probates and Administrations.*

In Her Britannic Majesty's Court at [Canton].

The [1st] day of [August], 18[66].

List of probates and administrations granted by this Court up to the 1st day of July, 1866, and not included in any previous list.

Date of grant.	Name in full of deceased.	His or her business, profession, or other description.	Place of his or her death.	Time of his or her death.	Name and description of each executor or administrator taking probate or administration.	Value of the personal property.

(Signed) X.Y.,
H.B.M. Consul at [Canton].

(Seal.)

31. *Charge.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

C.D., of , [labourer], [being first duly sworn] charges that [&c., state the offence].

(Seal.)

32. *Summons to Accused.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To A.B., of , [labourer].

You have this day been charged [on oath] before this Court, for that you [&c. stating shortly the offence charged].

Therefore you are hereby commanded, in Her Majesty's name, to appear before this Court on [Saturday next], the day of , at [10 o'clock in the fore noon] at [ ], to answer to the said charge, and to be further dealt with according to law.

(Seal.)

33. *Warrant in first instance for Apprehension of Accused.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer, and other officers of this Court.

A.B., of , [labourer], has this day been charged [on oath] before this Court for that he [&c., stating shortly the offence charged].

Therefore you are hereby commanded, in Her Majesty's name, forthwith to apprehend the said A B., and to bring him before this Court to answer to the said charge, and to be further dealt with according to law.

(Seal.)

31. *Warrant for Apprehension of Accused where Summons is disobeyed.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer and other officers of this Court.

A B. of , [labourer], was on the day of , 18 , charged [on oath] before this Court for that [&c., as in summons].

And the said A.B., was, by summons of this Court, commanded to appear before this Court on at [ ] at , to answer to the said charge, and to be further dealt with according to law.

And (as it has now been proved to this Court) he was duly served with the said summons. But he has not appeared according to the said summons.

Therefore you are hereby commanded, in Her Majesty's name, forthwith to apprehend the said A B., and to bring him before this Court, to answer to the said charge, and to be further dealt with according to law.

(Seal.)

35. *Summons of a Witness.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To E.F., of , [labourer].

A.B. of [labourer], has been charged before this Court for that [&c., as in summons or warrant against the accused].

And it appears to this Court that you are likely to give material evidence concerning the said charge.

Therefore you are hereby commanded, in Her Majesty's name, to appear before this Court on [Saturday next] the day of [ ], 18 , at [10 o'clock in the forenoon], at [ ], to testify what you shall know concerning the said charge.

(Seal.)

36. *Warrant where Witness has not obeyed Summons.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer and other officers of this Court.

A B. of , [labourer], has been charged before this Court for that [&c., as in summons].

And it appearing to the said Court that E F., of [labourer], is likely to give material evidence concerning the said charge, the said E F., was by summons of this Court, commanded to appear before this Court on [ ] at , at [ ], to testify what he should know concerning the said charge.

And (as it has now been proved to this Court) he was duly served with the said summons.

But he has not appeared according to the said summons, and has not excused his failure to do so to the satisfaction of this Court.

Therefore you are hereby commanded, in Her Majesty's name, to bring and have the said E F. before this Court on [ ], at [10 o'clock in the forenoon] at [ ], to testify what he shall know concerning the said charge.

(Seal.)

37. Warrant for Witness in first instance.

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer, and other officers of this Court.

A.B., of , [labourer], has been charged before this Court for that [&c., as in summons].

And it appears to this Court that E.F., of , [labourer], is likely to give material evidence concerning the said charge, and that it is probable he will not attend to give evidence unless compelled to do so.

Therefore you are hereby commanded, in Her Majesty's name, to bring and have the said E.F., before this Court on [Saturday next], the day of 18[ ], at [10 o'clock in the forenoon] at [ ], to testify what he knows concerning the said charge.

(Seal.)

38. Warrant of Commitment of Witness for refusing to be sworn or to give Evidence.

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [Her Britannic Majesty's] prison at [ ].

A.B., of , [labourer], has been charged before this Court for that [&c., as in summons].

And E.F., of , [labourer], now being before this Court to testify what he knows concerning the said charge in pursuance of a summons [or warrant] issued by this Court, and being required refuses to take an oath [or having taken an oath, refuses to answer a certain question now put to him concerning the said charge], and does not excuse his refusal to the satisfaction of this Court.

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., to take the said E.F., and convey him safely to the above-named prison, and there deliver him to the keeper thereof, together with this warrant.

And you, the keeper of the said prison, to receive the said E.F. into your custody in the said prison, and to keep him there safely for [seven] days, unless he in the meantime consents to answer duly on oath.

(Seal.)

39. Depositions of Witnesses on Preliminary Examination before Indictment.

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

A.B., of , [labourer], stands charged before this Court for that he [&c., as in summons].

And in the presence and hearing of the said A.B., C.D., of , [labourer], and E.F., of , [labourer], depose on oath as follows:

First, the said C.D. says as follows:—[state the deposition of the witness as nearly as possible in the very words he uses. When his deposition is complete let him sign it]

Secondly, the said E.F. says as follows:—[state his deposition in same manner.]

(Seal.)

40. Statement of the Accused on Preliminary Examination.

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

A.B., of , [labourer], stands charged before this Court for that [&c., as in summons].

And the said charge having been read to the said A.B., and C.D. and E.F., witnesses for the prosecution, having been severally examined in his presence and hearing, and their respective depositions having been read over to the said A.B., these words are now said to the said A.B. by this Court, namely:—

"Having heard the evidence, do you wish to say anything in answer to the

charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be written down in writing, and may be given in evidence against you on your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat, that may have been held out to you to induce you to make any admission or confession of your guilt; but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat."

Whereupon the said A.B. says as follows: [state whatever the accused says, and as nearly as possible in the very words he uses. Get him to sign the statement if he will.]

A.B.
(Seal.)

41. *Recognizance to Prosecute or give Evidence.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

C.D., of , [labourer], comes personally before this Court and acknowledges himself to owe to Our Sovereign Lady the Queen the sum of , to be levied on his goods if he fails in the condition hereon indorsed.

(Signed) C.D.
(Seal.)

Condition indorsed.

The condition of the within-written recognizance is as follows:—

A.B., of , [labourer], has been charged before this Court for that [&c., as in summons].

If, therefore, the within-named C.D. appears before this Court on [ ] at [ ],* and then and there prefers an indictment against the said A.B. for the said offence, and duly prosecutes the same [and gives evidence thereon],* then the said recognizance shall be void, and otherwise shall remain in full force.

[Where the recognizance is only to give evidence, substitute for the words between the asterisks * * the following: and then and there gives evidence on an indictment, to be then and there preferred against the said A.B. for the said offence.

42. *Notice of Recognizance to be given to Prosecutor and each of his Witnesses.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To C.D., of , [labourer].

You are bound in the sum of to appear before this Court on [ ] at [ ], and then and there to prosecute and give evidence against [or to prosecute or to give evidence against] A.B., of , [labourer], and unless you do so the recognizance entered into by you will be forthwith levied on your goods.

(Seal.)

43. *Commitment of Witness for refusing to enter into Recognizance.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [Her Britannic Majesty's Consular] prison at [ ].

A.B., of , [labourer], has been charged before this Court for that [&c., as in summons].

And E.F., of , [labourer], having been now examined before this Court concerning the said charge, and being required, refuses to enter into a recognizance to give evidence against the said A.B.

Therefore you are hereby commanded in Her Majesty's name, you the above-named X.Y., to take the said E.F., and convey him safely to the above-named prison, and there deliver him to the keeper thereof, together with this warrant,—

And you, the keeper of the said prison, to receive the said E.F. into your custody in the said prison, and to keep him there safely until after the trial of the said A.B. for the said offence, unless the said E.F. in the meantime consents to enter into such recognizance as aforesaid.

(Seal.)

44. *Warrant remanding the Accused, or (in summary cases) committing him for safe custody during an adjournment of the hearing, or where the hearing is not at once proceeded with.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [Her Britannic Majesty's] prison at [ ].

A.B., of , [labourer], has been charged before this Court for that [&c. as in summons].

* And it appears to this Court to be necessary to remand the said A.B.*

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., forthwith to convey the said A.B. to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant. And you, the keeper of the said prison, to receive the said A.B., into your custody in the said prison, and there safely keep him until the day of instant, and then to have him before this Court at [10 o'clock in the forenoon] of the same day at [ ] to answer further to the said charge, and to be further dealt with according to law.

(Seal.)

In summary cases substitute for the words between the asterisks * * the following:—

And the hearing of the said charge is adjourned [or cannot be at once proceeded with], and it is necessary that the said A.B. should in the meantime be kept in safe custody.

45. *Recognizance of Bail instead of remand on an adjournment of preliminary examination, or for surrender for trial, or (in summary cases) on adjournment of hearing, or where hearing is not at once proceeded with.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

We, A.B., of , [labourer], L.M., of , [grocer], and N.O., of , [butcher], come personally before this Court, and severally acknowledge ourselves to owe to our Sovereign Lady the Queen the several sums following, namely, the said A.B., the sum of , and the said L.M. and N.O. the sum of each, to be levied on our several goods, if the said A.B. fails in the condition hereon indorsed.

A.B.
L.M.
N.O.
(Seal.)

Condition indorsed.

The condition of the within-written recognizance is as follows:

The within-bounden A.B. has been charged before this Court for that [&c., as in summons].

If, therefore, the said A.B. appears * before this Court on [ ], at [o'clock], at [ ], to answer [further] to the said charge, and to be [further] dealt with according to law,* then the said recognizance shall be void, and otherwise shall remain in full force.

[Where the recognizance is for surrender for trial, substitute for the words between asterisks * *, the following: before [ ], on [ ], at [o'clock], at [ ], and then and there surrender himself into the custody of the keeper of the [ ] prison there, and plead to such indictment as may be preferred against him for the offence aforesaid, and take his trial thereon, and not depart from the Court without leave.

46. *Notice of Recognizance to be given to Accused and each of his Sureties.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To A.B., of , [labourer], L.M., of , [grocer], and N.O., of , [butcher]

You, A B, are bound in the sum of , and your sureties, L.M. and N.O., in the sum of each, that you, A.B., appear before* this Court on the day of , at [o'clock], at [ ], to answer [further] to the charge made against you by C.D., and to be [further] dealt with according to law;* and unless you, A.B., do so, the recognizance entered into by you, A.B., L.M., and N.O., will be forthwith levied on your respective goods.

(Seal.)

[Where the recognizance is for surrender for trial, substitute for the words between asterisks * *, words corresponding to the terms of the condition.]

47. *Warrant of Commitment of Accused for Trial.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [Her Britannic Majesty's Consular] prison at [ ].

A. B. stands charged before this Court on the oath of C.D., of [labourer], and others for that [&c., as in summons].

Therefore you are hereby commanded in Her Majesty's name, you, the above-named X.Y., to convey the said A.B. to the above-mentioned prison, and there to deliver him to the keeper thereof, together with this warrant, and you the said keeper of the said prison to receive the said A.B. into your custody in the said prison, and there safely keep him till he is thence delivered by due course of law.

(Seal.)

48. *Summary Conviction where the Punishment is Imprisonment and no Penalty.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

A.B., of , [labourer] is this day convicted before this Court for that [&c., state the offence and the time and place when and where committed].

And this Court adjudges the said A.B. for his said offence to be imprisoned in [Her Majesty's Consular] prison at [ ], there to be kept to hard labour for the space of [ ].

And this Court also adjudges the said A.B. to pay to the said C.D. the sum of for his costs in this behalf.

And if the same be not paid forthwith [or on or before next] then* this Court orders that the same be levied by distress and sale of the goods of the said A.B.

And in default of sufficient distress,* this Court adjudges the said A.B. to be imprisoned in the said prison [to be there kept to hard labour] for the space of [ ], to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs be sooner paid.

(Seal.)

[Where the issuing of a distress warrant would be ruinous to the person convicted and his family, or it appears that he has no goods whereon a distress could be levied, then substitute for the words between the asterisks * * the following:—

Inasmuch as it has now been made to appear to this Court that the issuing of a warrant of distress in this behalf would be ruinous to the said A.B. and his family [or that the said A.B. has no goods whereon the said sum could be levied by distress],

49. *Summary Conviction for a penalty to be levied by Distress, and in default of sufficient Distress, Imprisonment; or for a Penalty, and in default of Payment, Imprisonment.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

A.B., of , [labourer], is this day convicted before this Court for that [&c., state the offence and time and place when and where committed].

And this Court adjudges the said A.B. for his said offence to forfeit and pay the sum of [state the penalty and also the compensation, if any], to be paid and applied according to , and also to pay to the said C.D. the sum of for his costs in this behalf.

And if the said sums be not paid forthwith [or on or before next], then * this Court orders that the same be levied by distress and sale of the goods of the said A.B.

And in default of sufficient distress,* this Court adjudges the said A.B. to be imprisoned in [Her Britannic Majesty's Consular] prison at [ ] [there to be kept to hard labour] for the space of [ ], unless the said sums and all costs and charges † of the said distress [and † of the commitment and conveyance of the said A.B. to the said prison] be sooner paid.

(Seal.)

[Where the issuing of a distress warrant would be ruinous to the person convicted and his family, or it appears that he has no goods whereon a distress could be levied, then substitute for the words between the asterisks * * the following:—]

Inasmuch as it has now been made to appear to this Court that the issuing of a warrant of distress would be ruinous to the said A.B. and his family [or that the said A.B. has no goods whereon the said sums can be levied by distress].

[Where the conviction is for a penalty, and in default of payment, imprisonment, omit the words between the asterisks * *, and also the words between the marks † †.]

50. *Warrant of Commitment on a Conviction where the Punishment is Imprisonment and no Penalty.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [ ] prison at [ ].

A.B., of , [labourer], stands convicted before this Court by a conviction dated the day of , for that [&c., as in conviction].

And it is in and by the said conviction adjudged that the said A.B. for his said offence should be imprisoned in the [ ] prison at [ ], and there be kept to hard labour for the space of [ ].

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., to take the said A.B., and convey him to the said prison, and there deliver him to the keeper thereof, together with this warrant; and you, the said keeper of the said prison, to receive the said A.B. into your custody in the said prison, and there to imprison him [and keep him to hard labour] for the space of [ ].

(Seal.)

51. *Warrant (on a Conviction for a Penalty) for Commitment of the Person convicted in the first instance without previous Warrant of Distress.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [ ] prison at [ ].

A.B., of , [labourer], stands convicted before this Court by a conviction dated the day of , for that [&c., as in conviction].

And it is in and by the said conviction adjudged that the said A.B. should, for

his said offence, forfeit and pay [&c., as in conviction], and should also pay to the said C.D. the sum of for his costs in that behalf.

And that if the said sums should not be paid forthwith [or on or before the day of], the said A.B. should be imprisoned in the above-mentioned prison [and be there kept to hard labour], unless the same [and the costs and charges of the conveying of the said A.B. to the said prison] should be sooner paid.

And the said A.B., being required to pay the said sums according to the said conviction has not done so.

Therefore you are hereby commanded, in Her Majesty's name, you, the above-named X.Y., to take the said A.B. and convey him to the said prison and there deliver him to the keeper thereof, together with this warrant; and you, the said keeper of the said prison to receive the said A.B. into your custody in the said prison, and there to imprison him [and keep him to hard labour] for the space of [, unless the several sums [and the costs and charges of the conveying of him to the said prison, amounting to the further sum of] be sooner paid.

(Seal.)

52. *Warrant of Distress upon Conviction, for a Penalty, or where the Person convicted is to pay Costs but no Penalty.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court.

A.B., of , [labourer], stands convicted before this Court by a conviction dated the day of , for that [&c., as in conviction].

And it is in and by the said conviction adjudged that the said A.B. should,* for his said offence, forfeit and pay [&c., as in conviction], and should also* pay to the said C.D. the sum of for his costs in that behalf.

And that if the same should not be paid forthwith [or on or before the day of], the same should be levied by distress and sale of the goods of the said A.B.

And the said A.B., although required to pay the same according to the said conviction, has not paid the same.

Therefore you are hereby commanded, in Her Majesty's name, that you forthwith make distress of the goods of the said A.B., and if within the space of days next after the making of such distress, the said sums,† together with the reasonable charges of the making and keeping of the said distress be not paid, then that you sell the said goods by you distrained, and pay the money arising thereby into this Court, in order that it may be applied according to law, and that the overplus, if any, may be rendered on demand to the said A.B., and that if no such distress can be found, then you certify the same to this Court in order that further proceedings may be had according to law.

(Seal.)

[Where the person convicted is to pay costs, but no penalty, omit the words between asterisks * *, and for the word "sums" marked †, substitute "sum."]

53. *Officer's Return, if no sufficient Distress, to be indorsed on Warrant.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

I, X.Y., of , police officer of this Court, do hereby certify to this Court that, by virtue of the within-written warrant, I have made diligent search for the goods of the within-named A.B., and that I can find no sufficient goods of the said A.B. whereon the sums within-mentioned can be levied.

X.Y.

54. *Warrant of Commitment for Want of Distress.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [ ] prison at .

[Proceed as in warrant of distress (Form 52) down to the commencement of the commanding part, and then thus:—]

And on the day of , 18 , this Court issued a warrant to the above-named X.Y., commanding you to levy the said sum of , and , [or the said sum of for costs] by distress and sale of the goods of the said A.B.

And it now appears to this Court, as well by the return of you, the said X.Y., to the said warrant as otherwise, that you have made diligent search for the goods of the said A.B., but that no sufficient distress whereon the said sums could be levied could be found.

Therefore you are hereby commanded, in Her Majesty's name, you the said X.Y., to take the said A.B., and convey him safely to the above-mentioned prison, and there deliver him to the keeper thereof, together with this warrant, and you the said keeper of the said prison, to receive the said A.B. into your custody in the said prison, and there to imprison him [and keep him to hard labour] for the space o [ ], unless the said sums [or sum] and all the costs and charges of the said distress [and of the commitment and conveying to the said prison of the said A.B.] amounting to the further sum of be sooner paid.

(Seal.)

55. *Order of Dismissal of Charge.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

A.B., of , [labourer], was on day of , 18 , charged before this Court for that [&c., as in summons or warrant].

And now both the said parties appear before this Court in order that it may hear and determine the said charge [or the said A.B. appears before this Court, but the said C D., although duly called, do s not appear].

Whereupon, the matter of the said charge being by this Court duly considered,* it manifestly appears to this Court that the said charge is not proved, and* this Court dismisses the same.

And adjudges that the said C.D. do pay to the said A B. the sum of for his costs in this behalf, and if the same be not paid forthwith [or on or before] this Court orders that the same be levied by distress and sale of the goods of the said C.D., and in default of sufficient distress, this Court adjudges the said C.D. to be imprisoned in [ ] prison at [ ], [and there be kept to hard labour], unless the same sum and all costs and charges of the said distress [and of the commitment and conveying to the said prison of the said C.D.] be sooner paid.

(Seal.)

[Where the person making the charge does not appear at the hearing the words between asterisks * * may be omitted.]

56. *Certificate of Dismissal of Charge to be given to Accused.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

This is to certify that a charge made on the [ ] day of [ ], by C.D., of , [labourer], against A.B., of , [labourer], for that [&c., as in summons or warrant] is now considered by this Court, and is by this Court dismissed [with costs].

(Seal.)

57. *Warrant of Distress for Costs to be paid by the Person making the Charge on an Order for the Dismissal of the Charge.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court.

A.B., of , [labourer], was on the day of , 18 , charged before this Court for that [&c., as in summons or warrant].

And afterwards, namely, on the day of , 18 , both parties appeared before this Court in order that it should hear and determine the said

charge [or the said A.B. appeared before this Court, but the said C.D., although duly called, did not appear], and thereupon the matter of the said charge being duly considered by this Court,* and it manifestly appearing to this Court that the said charge was not proved,* this Court did dismiss the same, and adjudged that the said C.D. should pay to the said A.B. the sum of for his costs in that behalf, and that if the said sum should not be paid forthwith [or on or before], then the same should be levied by distress and sale of the goods of the said C.D.

And the said C.D., although required to pay the same according to the said order, has not paid the same.

Therefore you are hereby commanded—

[Proceed as in the commanding part of Form 52, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused, and for the word "suum" at the mark † read "sum."]

(Seal.)

58. *Warrant of Commitment for Want of Distress in the last Case.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [ ] prison at [ ].

[Proceed as in last form down to the commencement of the commanding part, and then thus:—]

And on the day of , 18 , this Court issued a warrant to you, the above-named X.Y. [proceed as in Form 54, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused].

(Seal.)

FEES.*

* Substituted by Table issued October 1, 1888. Page 634.

(No. 72.) *RULES of PROCEDURE to be observed in H.M.'s Supreme Court for China and Japan, in Admiralty.* 1867.*

WHEREAS it is of urgent necessity that Rules of Procedure in Admiralty causes should be framed for the guidance of suitors, and whereas, by virtue of provisions contained in 26 and 27 Vict., c. 24 ("An Act to facilitate the appointment of Vice-Admirals and of Officers in Vice-Admiralty Courts in Her Majesty's Possessions abroad," &c., &c.), which provisions are, by the 54th section of the China and Japan Order in Council, 1865, extended to the Supreme Court of China and Japan, the said Supreme Court, as a Vice-Admiralty Court, has jurisdiction in (amongst other things) the matters following:—

(1) Claims for Seamen's Wages;
(2) Claims for Master's Wages, and for his Disbursements on account of the Ship;
(3) Claims in respect of Pilotage;
(4) Claims in respect of Salvage of any Ship, or of Life or Goods therefrom;
(5) Claims in respect of Towage;
(6) Claims for Damage done by any Ship;
(7) Claims in respect of Bottomry or Respondentia Bonds;
(8) Claims in respect of any Mortgage where the Ship has been sold by a Decree of the Vice-Admiralty Court, and the Proceeds are under its control;
(9) Claims between the Owners of any ship registered, in the possession in which the Court is established, touching the Ownership, Possession, Employment, or Earnings of such Ship;
(10) Claims for Necessaries supplied, in the Possession in which the Court is established, to any Ship of which no Owner or Part Owner is domiciled within the Possession at the time of the Necessaries being supplied; and
(11) Claims in respect of the building, equipping, or repairing within any *British* possession of any Ship of which no Owner or Part Owner is domiciled within the Possession at the time of the Work being done:

It is ordered that, for the regulation of the practice and procedure to be observed in the Supreme Court as a Vice-Admiralty Court, the following Rules shall be established:—

1. All proceedings in Admiralty must be so headed.

NOTE.—Proceedings "in Admiralty" are either *in rem* or *in personam*. Actions *in personam* shall be conducted in the same way as all other actions of a similar nature, according to the Rules of Procedure prevailing in the Supreme Court in matters of Law and Equity. The following outline of procedure, will, therefore, be understood to refer only to actions *in rem*, that is, against the *Res*, in other words, the subject matter of the action.

* Approved 9th September, 1867. See also (No. 88).

charge [or the said A.B. appeared before this Court, but the said C.D., although duly called, did not appear], and thereupon the matter of the said charge being duly considered by this Court,* and it manifestly appearing to this Court that the said charge was not proved * this Court did dismiss the same, and adjudged that the said C.D. should pay to the said A.B. the sum of for his costs in that behalf, and that if the said sum should not be paid forthwith [or on or before] then the same should be levied by distress and sale of the goods of the said C.D.

And the said C.D., although required to pay the same according to the said order, has not paid the same.

Therefore you are hereby commanded—

[Proceed as in the commanding part of Form 52, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused, and for the word "sums" at the mark † read "sum."]

(Seal.)

58. *Warrant of Commitment for Want of Distress in the last Case.*

In Her Britannic Majesty's Court at [Canton].

[Thursday], the day of , 18 .

To X.Y., police officer of this Court, and to the keeper of [ ] prison at [ ].

[Proceed as in last form down to the commencement of the commanding part, and then thus:]

And on the day of , 18 , this Court issued a warrant to you, the above-named X.Y. [proceed as in Form 54, only substituting the name of C.D., the prosecutor, for the name of A.B., the accused].

(Seal.)

FEES.*

* Substituted by Table issued October 1, 1868. Page 634.

(No. 72.) *RULES of PROCEDURE to be observed in H.M.'s Supreme Court for China and Japan, in Admiralty.* 1867.*

WHEREAS it is of urgent necessity that Rules of Procedure in Admiralty causes should be framed for the guidance of suitors, and whereas, by virtue of provisions contained in 26 and 27 Vict., c. 24 ("An Act to facilitate the appointment of Vice-Admirals and of Officers in Vice-Admiralty Courts in Her Majesty's Possessions abroad," &c., &c.), which provisions are, by the 54th section of the China and Japan Order in Council, 1865, extended to the Supreme Court of China and Japan, the said Supreme Court, as a Vice-Admiralty Court, has jurisdiction in (amongst other things) the matters following:—

(1) Claims for Seamen's Wages;
(2) Claims for Master's Wages, and for his Disbursements on account of the Ship;
(3) Claims in respect of Pilotage;
(4) Claims in respect of Salvage of any Ship, or of Life or Goods therefrom;
(5) Claims in respect of Towage;
(6) Claims for Damage done by any Ship;
(7) Claims in respect of Bottomry or Respondentia Bonds;
(8) Claims in respect of any Mortgage where the Ship has been sold by a Decree of the Vice-Admiralty Court, and the Proceeds are under its control;
(9) Claims between the Owners of any ship registered, in the possession in which the Court is established, touching the Ownership, Possession, Employment, or Earnings of such Ship;
(10) Claims for Necessaries supplied, in the Possession in which the Court is established, to any Ship of which no Owner or Part Owner is domiciled within the Possession at the time of the Necessaries being supplied; and
(11) Claims in respect of the building, equipping, or repairing within any *British* possession of any Ship of which no Owner or Part Owner is domiciled within the Possession at the time of the Work being done:

It is ordered that, for the regulation of the practice and procedure to be observed in the Supreme Court as a Vice-Admiralty Court, the following Rules shall be established:—

1. All proceedings in Admiralty must be so headed.

NOTE.—Proceedings "in Admiralty" are either *in rem* or *in personam*. Actions *in personam* shall be conducted in the same way as all other actions of a similar nature, according to the Rules of Procedure prevailing in the Supreme Court in matters of Law and Equity. The following outline of procedure, will, therefore, be understood to refer only to actions *in rem*, that is, against the *Res*, in other words, the subject matter of the action.

* Approved 9th September, 1867. See also (No. 88).

2. The name and nationality of the Ship against which the proceedings are taken, must appear, as also that of the Master; and when the Owners are known, their names and residences should likewise be given.

NOTE. To give the Court jurisdiction in claims Nos. 10 and 11 (see above), the fact of the owners not being domiciled within the jurisdiction of the Court should be stated.

3. Any number of persons having a *common interest* may join in one action according to the practice of Admiralty Courts in England; and there may, in accordance with the same practice, be one action against several *Res*.

NOTE. Such consolidation of separate claims may likewise be ordered on the application of the defendant, or by the Court of its own motion.

4. Proceedings *in rem* must be commenced by an application for the arrest of the *Res*. This application must state the nature of the debt or claim and the amount sought to be recovered (which should include the estimated costs of the suit). It must be supported by an Affidavit of all the circumstances which justify its being made, and a fee is to be paid on its being granted.

NOTE.—The application must be filed in triplicate—one copy for service on the vessel, another for the Court, and the third for service on any party who may appear to the action.

(2) It shall be in the discretion of the Court to require and take security from the applicant for the prosecution of the suit, as well as to cover any damages which may be awarded against him, in consequence of the impropriety, frivolity, or malicousness of the application.

(3) All payments into Court shall be made in such currency and at such exchange as the Court shall direct.

5. On the application being made in due form, a Warrant will issue to the Officer of the Court, to arrest the *Res*, and cite all persons, having an interest in the subject matter of the arrest, to appear within a time mentioned in the Warrant and answer to the plaintiff in his cause.

6. The arrest shall be executed by the arresting officer affixing a certified copy of the Warrant to the principal mast or to some other conspicuous part of the ship, after having previously read the original Warrant to the officer or other person in charge of the vessel.

NOTE.—The Warrant extends to the *engines, appurtenances*, &c., of the ship, although all or part may have been detached from her and sent on shore. If the entire cargo be stored on board the vessel, the service on the mast arrests the former as well as the latter, and also the action be against the freight, the latter is considered to be arrested accordingly with the cargo. But should the cargo have been landed, and deposited in a public or private warehouse, a separate and distinct arrest of it must be made, provided the warehouse be within the territorial limits of a British Court. In this case, the officer of the Court will affix a certified copy of the Warrant on such separate warehouse, and declare that the cargo has been transhipped to a British ship. But if the warehouseman, or person in charge of the cargo, will not permit access to it, the Officer will serve him in respect of the *Res* with the Warrant, showing to him the original and leaving with him a copy of it.

(2) The fact of the arrest is to be certified by endorsement under the hand of the officer making it.

1. The names of the two vessels which came into collision, and the names of their respective masters.
2. The time of the collision as nearly as can be stated.
3. The locality of the collision.
4. The direction of the wind at the time.
5. The state of the weather.
6. The state and force of the tide.
7. The course and speed of the vessel when the other was first seen.
8. The lights, if any, carried by her.
9. The distance and bearing of the other vessel when first seen.
10. The lights, if any, of the other vessel which were first seen.
11. Whether any lights of the other vessel other than those first seen came into view before the collision.
12. What measures were taken, and when, to avoid the collision.
13. The parts of each vessel which first came into contact.

Such packets shall remain sealed, and shall not be opened, save by order of the Judge, until the pleadings and proofs are filed; they may be referred to at the hearing of the cause.

APPENDIX B.

Fees to be taken by the Supreme Court sitting in Admiralty.

1.	On every Warrant or Citation	$15.00
2.	„ „ Detainer	15.00
3.	„ retaining Possession of a Ship, or of a Ship and Goods, to include the cost of a Ship Keeper, if required, per day	2.50
4.	„ every Release	5.00
5.	„ „ Commission, Monition, Decree, Requisition, Attachment, or other Instrument for which a Fee is not specially provided	15.00
6.	„ „ Bail Bond	5.00
7.	„ „ Affidavit of Justification	2.00
8.	„ „ Subpœna	2.00
9.	„ „ Minute, including the entry of an order, if any	1.00
10.	„ „ Summons, including the entry of the Judge's or Registrar's order	2.00
11.	„ „ Notice of Sale, or Notice of Proceedings in a Cause of Possession [with fee on advertisement]	5.00
12.	„ „ Notice of Motion, including the entry of the Judge's order	5.00
13.	„ „ Petition .. .. 1 % *on filing*	
14.	„ „ Notice to have a Cause placed on the List for Hearing, including the entry of the Judge's order, if the Cause be by Default . ..	5.00

15. The proceeds of the sale shall be paid into Court, and therefrom shall the decree or decrees, on a day fixed for the appearance before the Court of the parties interested for the marshalling of their claims, be satisfied; and the surplus shall remain in Court until the person or persons claiming to be entitled thereto shall establish their claim or claims.

NOTE. It shall be competent for any person, at any period in a suit, to file in Court a petition that he be decreed to share in the proceeds or in the balance thereof; and any proceedings or this description shall be conducted in the same way as such a claim would have been conducted against the *Res* itself.

16. It shall be competent for the Court to refer any matter requiring investigation, or having reference to accounts, rate of interest, repairs done to any ship, &c., to the Registrar alone, or to the Registrar assisted by one or two merchants or shipmasters to be appointed by it; and such Reference shall take place within ten days from the date of the order therefor. Leave shall, when prayed for by either party, be given to file affidavits and counter-affidavits, provided always that the Judge shall have power to extend the time within which the Reference is to take place whenever the filing of affidavits and counter-affidavits necessitates such extension.

Witnesses may be produced before the Registrar, provided four days' notice of an intention to examine them be given; and it shall be optional with the Registrar to permit or refuse to allow the attendance of Counsel or Solicitors at the hearing before him, and no costs shall be allowed for such attendance if the Registrar shall be of opinion that it was unnecessary.

The Report of the Registrar shall be filed within ten days of the hearing before him, and notice of any objection to be made thereto shall be filed by the party making it, within five days of the filing of the Report.

All questions of cost of the Reference shall be in the discretion of the Registrar, subject to the decision thereon of the Chief Judge.

17. In all cases the Court shall apply the English Law as administered in Admiralty Courts in England; and all matters of procedure, not otherwise provided for in these Rules or in the General Rules of Procedure for this Court, shall be governed, as far as may be, by the Rules in force in Her Majesty's High Court of Admiralty.

APPENDIX A.

Causes of Damage.

In causes of Damage each party shall, at the time of filing his petition or answer, bring into and deposit in the Registry a sealed packet containing a statement of the following particulars:—

1. The names of the two vessels which came into collision, and the names of their respective masters.
2. The time of the collision as nearly as can be stated.
3. The locality of the collision.
4. The direction of the wind at the time.
5. The state of the weather.
6. The state and force of the tide.
7. The course and speed of the vessel when the other was first seen.
8. The lights, if any, carried by her.
9. The distance and bearing of the other vessel when first seen.
10. The lights, if any, of the other vessel which were first seen.
11. Whether any lights of the other vessel other than those first seen came into view before the collision.
12. What measures were taken, and when, to avoid the collision.
13. The parts of each vessel which first came into contact.

Such packets shall remain sealed, and shall not be opened, save by order of the Judge, until the pleadings and proofs are filed; they may be referred to at the hearing of the cause.

APPENDIX B.

Fees to be taken by the Supreme Court sitting in Admiralty.

1.	On every Warrant or Citation	$15.00
2.	„ „ Detainer	15.00
3.	„ retaining Possession of a Ship, or of a Ship and Goods, to include the cost of a Ship Keeper, if required, per day	2.50
4.	„ every Release	5.00
5.	„ „ Commission, Monition, Decree, Requisition, Attachment, or other Instrument for which a Fee is not specially provided	15.00
6.	„ „ Bail Bond	5.00
7.	„ „ Affidavit of Justification	2.00
8.	„ „ Subpœna	2.00
9.	„ „ Minute, including the entry of an order, if any	1.00
10.	„ „ Summons, including the entry of the Judge's or Registrar's order	2.00
11.	„ „ Notice of Sale, or Notice of Proceedings in a Cause of Possession [with fee on advertisement]	5.00
12.	„ „ Notice of Motion, including the entry of the Judge's order	5.00
13.	„ „ Petition .. .. 1 °	*on filing*
14.	„ „ Notice to have a Cause placed on the List for Hearing, including the entry of the Judge's order, if the Cause be by Default . ..	5.00

15.	Placing Cause on Hearing List	1½ %
16.	On the Examination of any Witness *viva voce*, either in Court or before the Registrar	$1.00
17.	„ administering an Oath, for each Deponent ..	1.00
18.	„ every Document, on the same being filed, save an Exhibit or any Instrument or Document previously issued from the Registry or the Marshal's Office	3.00
19.	„ every Exhibit, including the marking thereof ..	1.00
20.	For every office copy of a Document in the English language, per sheet, not exceeding 10 folios, including the Registrar's signature	2.00
21.	If required to be collated in the Registry, per sheet, not exceeding 10 folios, in addition to the above ..	1.00
22.	On a reference to the Registry	25.00
23.	If the attendance of one or two merchants is required, to each merchant	25.00
24.	In cases of great intricacy and large amount, to the Registry and to each merchant	50.00
25.	When the accounts to be investigated do not amount to $1,500, to the Registry, and to each merchant ..	15 *a* 25
26.	When the accounts to be investigated do not amount to $500, to the Registry and to each merchant ..	7 *a* 15
27.	On drawing the Report and Schedule in cases in which the claim exceeds $500	10.00
28.	„ drawing the Report and Schedule in cases where the claim does not exceed $500	5.00
29.	„ taxing any Bill of Costs, per sheet not exceeding 10 folios, from each party to the Taxation	2.00
30.	„ taxing any Bill of Costs, per sheet not exceeding 10 folios, if but one party attend the Taxation ..	4.00
31.	„ every Order for payment of money out of the Registry	2.00
32.	Poundage on moneys paid out of the Registry in any Cause, if the sum does not exceed $250	1.00
33.	Poundage on moneys paid out of the Registry in any Cause, if it exceeds $250 but does not exceed $500	2.00
34.	Poundage on moneys paid out of the Registry in any Cause, if it exceeds $500 but does not exceed $1,000	5.00
35.	For every additional $500	2.00

(No. 73.) *RULES agreed upon between Sir Rutherford Alcock and the Prince of Kung for Joint Investigation in Cases of Confiscation and Fine by the Custom-House Authorities. Peking, 31st May,* 1868.

RULE I.—It shall be the rule for all business connected with the Custom-House Department to be in the first instance transacted between the Commissioner of Customs and the Consul, personally or by letter; and procedure in deciding cases shall be taken in accordance with the following regulations.

RULE II.—Whenever a ship or goods belonging to a foreign merchant are seized in a port of China by the Custom-House officers, the seizure shall be reported without delay to the *Kien-tuh* or Chinese Superintendent of Customs. If he consider the seizure justifiable he will depute the *Shwui-wu-sze*, or Foreign Commissioner of Customs to give notice to the party to whom the ship or goods are declared to belong, that they have been seized because such or such an irregularity has been committed, and that they will be confiscated unless, before noon on a certain day, being the sixth day from the delivery of the notice, the Custom-House authorities receive from the Consul an official application to have the case fully investigated.

The merchant to whom the ship or goods belong, if prepared to maintain that the alleged irregularity has not been committed, is free to appeal, within the limited time, direct to the Commissioner, who is to inform the Superintendent.

If satisfied with his explanations, the Superintendent will direct the release of the ship or goods; otherwise, if the merchant elect not to appeal to the Customs, or if, after receiving his explanations, the Superintendent still decline to release the ship or goods, he may appeal to his Consul, who will inform the Superintendent of the particulars of this appeal, and request him to name a day for them both to investigate and try the case publicly.

RULE III.—The Superintendent, on receipt of the Consul's communication will name a day for meeting at the Custom-House; and the Consul will direct the merchant to appear with his witnesses there on the day named, and will himself on that day proceed to the Custom-House. The Superintendent will invite the Consul to take his seat with him on the bench; the Commissioner of Customs will also be seated to assist the Superintendent.

Proceedings will be opened by the Superintendent, who will call on the Customs' employés who seized the ship or goods to state the circumstances which occasioned the seizure, and will question them as to their evidence. Whatever the merchant may have to advance in contradiction of their evidence, he will state to the Consul, who will cross-examine them for him. Such will be the proceedings in the interest of truth and equity. The Consul and Superintendent may, if they see fit, appoint deputies to meet at

the Custom-House in their stead, in which case the order of proceeding will be the same as if they were present in person.

RULE IV.—Notes will be taken of the statements of all parties examined, a copy of which will be signed and sealed by the Consul and Superintendent. The room will then be cleared, and the Superintendent will inform the Consul of the course he proposes to pursue. If he propose to confiscate the vessel or goods and the Consul dissent, the merchant may appeal, and the Consul having given notice of the appeal to the Superintendent, they will forward certified copies of the above notes to Peking, the former to his Minister and the latter to the Foreign Office, for their decision.

If the Consul agrees with the Superintendent that the ship or goods ought to be confiscated, the merchant will not have the right of appeal; and in no case will the release of ship or goods entitle him to claim indemnity for their seizure, whether they be released after the investigation at the Custom House or after the appeal to the high authorities of both nations at Peking.

RULE V.—The case having been referred to superior authority, the merchant interested shall be at liberty to give a bond binding himself to pay the full value of the ship or goods attached, should the ultimate decision be against him, which bond being sealed with the Consular seal and deposited at the Custom-House, the Superintendent will restore to the merchant the ship or goods attached; and when the superior authorities shall have decided whether so much money is to be paid, or the whole of the property seized be confiscated, the merchant will be called on to pay accordingly. If he decline to give the necessary security, the ship or merchandise attached will be detained. But whether the decision of the superior authorities be favourable or not the appellant will not be allowed to claim indemnity.

RULE VI.—When the act of which a merchant at any port is accused is not one involving the confiscation of ship or cargo, but is one which, by Treaty or Regulation, is punishable by fine, the Commissioner will report the case to the Superintendent, and at the same time cause a plaint to be entered in the Consular Court. The Consul will fix the day of the trial and inform the Commissioner, that he may then appear with the evidence and the witnesses in the case. And the Commissioner, either personally or by deputy shall take his seat on the bench, and conduct the case on behalf of the prosecution.

When the Treaty or Regulations affix a specific fine for the offence, the Consul shall, on conviction, give judgment for that amount, the power of mitigating the sentence resting with the Superintendent and Commissioner. If the defendant is acquitted and the Commissioner does not demur to the decision, the ship or goods if any be under seizure, shall at once be released, and the circumstances of the case be communicated to the Superintendent. The merchant shall not be put to any expense by delay, but he shall have no claim for compensation on account of hindrance in his business, for loss of interest, or for demurrage. If a difference

of opinion exist between the Consul and the Commissioner, notice to that effect shall be given to the Superintendent, and copies of the whole proceedings forwarded to Peking for the consideration of their respective high authorities.

Pending their decision, the owner of the property must file a bond in the Consular Court to the full value of the proposed fine, which will be sent to the Custom-House authorities by the Consul, and the ship or goods released.

RULE VII.—If the Custom-House authorities and Consul cannot agree as to whether certain duties are leviable or not, action must be taken as Rule V directs, and the merchant must sign a bond for the value of the duties in question. The Consul will affix his seal to this document and send it to the Custom-House authorities, when the Superintendent will release the goods without receiving the duty, and these two functionaries will send statements of the case to Peking, one to his Minister, the other to the Foreign Office.

If it shall be decided there that no duty shall be levied, the Custom-House authorities will return the merchant's bond to the Consul to be cancelled, but if it be decided that a certain amount of duty is leviable, the Consul shall require the merchant to pay it at the Custom-House.

RULE VIII.—If the Consul and the Custom-House authorities cannot agree as to whether confiscation of ship, or a cargo, or both of them together, being the property of a foreign merchant, shall take place, the case must be referred to Peking for the decision of the Foreign Office and the Minister of his nation. Pending their decision the merchant must, in accordance with Rule V, sign a bond for the amount, to which the Consul will affix his seal and send it for deposit at the Custom-House. As difference of opinion as to the value [of ship or goods] may arise, the valuation of the merchant will be decisive, and the Custom-House authorities may, if they see fit, take over either at the price aforesaid.

If, after such purchase, it be decided that the property seized ought to be confiscated, the merchant must redeem his bond by paying in at the Custom-House the original amount of the purchase money. If the decision be against confiscation, the bond will be returned to the Consul for transmission to the merchant, and the case then be closed. The sum paid by the Custom-House authorities for ship or goods being regarded as their proper price, it will not be in the merchant's power, by a tender of the purchase money, to recover them.

[Copies of the above 8 Rules were sent by the Prince of Kung to the various Foreign Ministers at Peking for communication to their respective Consuls, to the Superintendents of Trade for the Northern and Southern Ports, and to the Inspector General of Customs, on the 29th May, 1858.]

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JOINT MINUTE.

The Code of Municipal and Land Regulations, issued on the 5th July, 1854, by the Consuls of Great Britain, the United States of America, and France, acting under instructions from their respective Plenipotentiaries for the better security and government of all foreigners at Shanghae, having been found by subsequent experience to be inadequate to meet the exigencies of the administration of law and order over the increasing population living at that port, was revised at a special meeting of the land-renters, convened by their respective Consuls, in the month of March, 1866, and submitted for approval through the Ministers of Great Britain, the United States of America, France, Russia, and North German

(No. 75.) *LAND REGULATIONS and Bye-Laws for the Foreign Settlements of Shanghae, north of the Yang-king-pang; with Rules of Procedure to be observed at Meetings of Ratepayers.* 1869.

[Approved by Order in Council of 25th October, 1881, page 619.]

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JOINT MINUTE.

The Code of Municipal and Land Regulations, issued on the 5th July, 1854, by the Consuls of Great Britain, the United States of America, and France, acting under instructions from their respective Plenipotentiaries for the better security and government of all foreigners at Shanghae, having been found by subsequent experience to be inadequate to meet the exigencies of the administration of law and order over the increasing population living at that port, was revised at a special meeting of the land-renters, convened by their respective Consuls, in the month of March, 1866, and submitted for approval through the Ministers of Great Britain, the United States of America, France, Russia, and North German

Confederation, to those Governments, all of which have since officially signified their acceptance of the same. But meanwhile, through the separate action of the French Government, a Code of Réglemens d'Organisation Municipale was published 11th July, 1866; and again on the 14th April, 1868, with modification by the French Consul-General, which now has effect over that portion of the foreign settlement lying south of the Yang-king-pang Creek; and consequently, the aforesaid Code of revised land Regulations will apply only to that part of the foreign settlement lying north of this creek, whenever it goes into operation.

Therefore, in order to avoid longer delay, and its consequent imminent risks to the welfare and safety of those concerned, we, the Undersigned, do hereby provisionally agree, on behalf of our respective Governments, both to the Code of Réglemens issued 14th April, 1868, and to the revised land Regulations for the foreign settlement with the bye-laws annexed, prepared in March, 1866, which are severally to have effect within the limits now claimed on the south and north sides of the aforesaid creek, and are both alike to have the force of law on and after the 1st day of November, 1869, until the further pleasure of our respective Governments be made known.

And in pursuance of this Agreement, we will give the necessary instructions to the Consuls of our respective nationalities at Shanghae, through whom these two Codes shall be published for general information and observance.

In witness whereof we have signed this at Peking, the 24th September, 1869.

(Signed) RUTHERFORD ALCOCK.
REHFUES.
EUG. BUTZOW,
Chargé d'Affaires de Russia.
ROCHECHOUART,
Chargé d'Affaires de France.
S. WELLS WILLIAMS,
U.S. Chargé d'Affaires ad int.

MEMORANDUM.

In reference to the annexed Joint Minute, it is hereby declared that the revised land Regulations, with the bye-laws, prepared in 1866, provisionally sanctioned by the Undersigned, shall be held to include the said Regulations as amended and modified by a public meeting of the land-renters, held on the 27th and 28th May, 1869. And subsequently considered at a meeting of the foreign Consuls, held on the 13th July, 1869, and by them confirmed.

And in reference to the question discussed by the Consuls relative to a provision for enabling individuals to sue the Council, the Undersigned sanction provisionally, and as an experiment subject to future modification if found expedient, the third proposition

brought under consideration of the Consuls in their meeting of the 13th July, 1869, by which a Court, to be styled the "Court of Foreign Consuls," shall be established at the beginning of each year by the whole body of Treaty Consuls, and instructions will be given accordingly.

(Signed) RUTHERFORD ALCOCK.
REHFUES.
ROCHECHOUART.
EUG. BUTZOW.
S. WELLS WILLIAMS.

PEKING,
October 21, 1869.

LAND REGULATIONS.

Preamble.

Whereas certain Regulations, entitled Land Municipal Regulations, for the peace, good order, and government of all persons residing on the land set apart by the Chinese authorities for the residence of foreigners, were settled and agreed upon by the Representatives of England, France, and the United States of America, then being the three Treaty Powers, and under their instruction by the Consuls of the above-mentioned States, in communication with his Excellency Woo, the chief local authority representing the Chinese Government at Shanghae; and whereas it was therein provided that, hereafter, should any corrections be requisite in the aforesaid Regulations, or should it be necessary to determine on further rules, or should doubts arise as to the construction of or powers conferred thereby, the same should be consulted upon and settled by the Foreign Consuls and Intendant of Circuit in communication together, who should equitably decide thereon, and submit the same for confirmation to the Representatives of their respective countries in China and to the Chinese Imperial Commissioner managing the affairs at the five ports. And whereas it is expedient that the said Regulations should be revised, and that further and better provision should be made for the peace, good order, and government of all persons residing on the land so set apart as aforesaid: be it ordered that the following revised Regulations, and the bye-laws annexed thereto, shall have effect and be binding upon all persons residing or being within the limits mentioned in the following Regulations, as to all matters and things comprised therein from and after the expiration of one month, after the same shall have been affixed and kept exhibited at the offices of the various foreign Consulates.

REGULATIONS.

I.—*Boundaries and Limits Defined.*

The boundaries of the land to which these Regulations apply are:—

1st. Those defined in the land Regulations, settled and agreed upon by Captain Balfour, Her Britannic Majesty's Consul, and Kung-Moo-Kew, Intendant of Circuit, on the 24th day of September, 1846; and further defined in the Agreement entered into between Rutherford Alcock, Esq., Her Britannic Majesty's Consul, and Liu, Intendant of Circuit, on the 27th day of November, 1848, and set forth in the copy, hereunto annexed, of the original map attached to the said Agreement.*

And 2nd. On the north side of the Soochow Creek—north, the line from Yang-tsze-poo to the point opposite the Defence Creek; south, the Hwang-poo from the mouth of the Soochow Creek to the mouth of the creek entering the Hwang-poo, near the lower limit of the anchorage called the Yang-tsze-poo; west, the Soochow Creek from a point opposite the entrance of the Defence Creek to the Hwang-poo; east, the bank three *li* along the line of the Yang-tsze-poo.

Within the boundaries defined and above referred to under the first head are certain sites, namely, the new Custom House and the Temple of Rewards, together with the land set apart for the use of Her Britannic Majesty's Government, known as the British Consulate site, which are exempted from municipal control, as well as any land hereafter to be settled or acquired by other Governments having Treaties with China for Government purposes only; but the British and foreign Consulate sites, the Custom House, and any lands acquired as above, shall bear their share of the public burdens and municipal taxes.

II.—*Mode of acquiring Land.*

Any person desiring to rent land or purchase houses from the Chinese proprietors, within the said limits, shall do so in accordance with the provisions laid down in the Treaties of foreign Powers with China.

III.—*Final Settlement and Title-Deeds.*

It having been ascertained that no impediment exists to the renting of the land, the parties interested may settle with the Chinese proprietors the price and conditions of sale, and they will then report the transaction to their Consular Representative, and lodge with him the Chinese proprietor's Agreement, or deed of sale, in duplicate, accompanied by a plan clearly marking the boundaries. The said Consular Representative shall then transmit the same to

* See despatch of Consul Alcock to Sir S. G. Bonham, 27th November, 1848.

the Intendant of Circuit for examination. If the sale be regular, the deeds will be returned to the Consul sealed by the Intendant of Circuit, and the purchase-money can then be paid. If there are graves or coffins on the land rented, their removal must be a matter of separate agreement, it being contrary to the custom of the Chinese to include them in the agreement or deed of sale.

IV.—*Registration of Land and Charges Thereon.*

All such conveyances or leases of land, so purchased as aforesaid, shall within one month from the time of the completion of the sale be registered in the office of the Consular Representative of the purchaser; and all charges by way of mortgage, whether of a legal or equitable character, shall also be registered in the like manner, and within one month of their execution.

V.—*Transfers of Lots, when to be Registered.*

All transfers of land shall be made at the Consulate where the deeds are registered, and also be registered at that of the vendee or assignee, and notice of the same shall be lodged by the Consul with the Municipal Council.

VI.—*Land Surrendered to Public Use.*

It is understood and agreed that land heretofore surrendered by the various foreign renters to public use, such as roads and the beach grounds of the rivers within the aforesaid limits, shall remain henceforth dedicated to the same uses; and as new lots are required, such parts thereof as are beach ground shall be held under and subject to similar uses; and due provision shall be made for the extension of the lines of roads at present laid down as means of communication in the settlement. To this end the Council, appointed by the land-renters and others entitled to vote on the terms and in the manner hereinafter mentioned within the boundaries referred to, will at the beginning of each year examine the map, and determine what new lines of road are necessary; and all land subsequently rented shall only be rented on the terms of the renter surrendering to the public use the beach ground aforesaid, if any, and the land required for such roads; and in no case shall land so surrendered, or which shall now be dedicated to the use of the public, be resumed, except with the consent of the proper majority of land-renters and others who may be entitled to vote as aforesaid in public meeting assembled, nor shall any act of ownership be exercised over the same by the renters thereof, notwithstanding any payment by them to the Chinese Government of any ground rent. Provided always that no act of appropriation or dedication for public uses of the said beach ground or of ground for roads, other than those already defined, shall contrary to the will of the renters thereof, in any case, be sanctioned or held lawful

under these Regulations. On the admission by vote of public meeting of any tracts of land into the limits of the municipal authority, the Municipal Council shall give notice of all roads and public properties which they intend to set aside in the general interest; and should any citizen or subject of a Treaty Power who may previously have acquired land within such tracts object to any part of the reservation thus notified, he must, within fourteen days after the issue of the notice, warn his own Consul or the Municipal Council of his objection, in order that steps may be taken to adjust the claim. Provided always that in the event of a failure to effect such adjustment on terms which may appear reasonable to the Consul, the Council shall have the option of declining to accept jurisdiction over the proposed annexation, which consequently cannot take place. It shall also be lawful for the land-renters and others who may be entitled to vote as hereinafter mentioned, in public meeting assembled, to purchase land leading or being out of the settlement, or to accept land from foreign or native owners upon terms to be mutually agreed upon between the Council and such foreign or native owners, for the purpose of converting the same into roads or public gardens and places of recreation and amusement, and it shall be lawful for the Council from time to time to apply such portion of the funds raised under Article IX of these Regulations, for the purchase, creation, and maintenance of such roads, gardens, &c., as may be necessary and expedient. Provided always that such roads and gardens shall be dedicated to the public use, and for the health, amusement, and recreation of all persons residing within the settlement.

VII.—*Boundary Stones to be placed.*

When land is rented, stones having the number of the lot distinctly cut thereon, in English and Chinese, must be placed to define the boundaries thereof, under the supervision of the Consul applying for the land, and of the Chinese local authorities. A time will be named for the boundary stones to be fixed, in the presence of an officer deputed by the Consul, of the Tepaou of the district, and of the Chinese proprietors and the renter, in such manner that they may not interfere with the lines of road or the boundaries, or in any other way give cause for litigation and dispute hereafter.

VIII.—*Chinese Government Land Tax, when Payable.*

The annual rent on all lands leased by foreigners, reserved to the Chinese Government, shall be payable in advance on the 15th day of the 12th moon of each year. And all rent in arrear and unpaid on that day shall be recoverable in a summary manner, on the complaint of the Intendant of Circuit in the Court of the Consular Representative of the defaulting renter.

IX.—*Roads and Jetties, Assessment on Land and Houses, Rates, Dues, and Taxes. Consuls to fix days for Election of Council. Calling Meeting of Ratepayers.*

It being expedient and necessary for the better order and good government of the settlement that some provision should be made for the appointment of an Executive Committee or Council, and for the construction of public works, and keeping the same in repair; and for cleansing, lighting, watering, and draining the settlement generally: establishing a watch or police force therein; purchasing and renting lands, houses, and buildings for municipal purposes; paying the persons necessarily employed in any municipal office or capacity, and for raising money when necessary by way of loan or otherwise for any of the purposes aforesaid, the foreign Treaty Consuls, or a majority of them, shall, during the month of April or May, in each year, and so early in the same as possible, fix the day for the election of the Executive Committee or Council, in manner hereinafter provided, giving fourteen days' notice of the same, and shall also during the said months give notice of a public meeting to be held within twenty-one days of such notice to devise ways and means of raising the requisite funds for these purposes; and it shall be competent to such meeting duly assembled, or a majority thereof, including proxies for absent owners of land, to impose and levy rates and issue licenses for the purposes mentioned in the bye-laws, and to declare an assessment in the form of a rate to be made on the said land or buildings; provided always that the proportion between the tax on land and on houses or buildings shall not exceed *one twentieth of one per cent.* on the gross value of land to *one per cent.* on the annual rental of houses; and it shall also be competent to the said meeting, or a majority thereof as aforesaid, to impose other rates and taxes in the form of dues on all goods passed through the Chinese custom-house by any person or persons resident within the said limits, or landed, shipped, or transhipped at any place within the said limits; provided the said rates or taxes levied in the form of dues shall in no case exceed the amount of *one-tenth of one per cent.* on the value of the goods so passed, landed, shipped, or transhipped, and in such other forms as may appear requisite and necessary for the purposes aforesaid.

X.—*Land-Renters and Others to appoint Committee or Council.*

And whereas it is expedient that the said land-renters and others entitled to vote, on the terms hereinafter mentioned, in public meeting duly assembled, under and in accordance with the provisions of the preceding article, should appoint in the mode hereinafter provided an Executive Committee or Council to consist of not more than nine nor less than five persons, for the purpose of levying the rates dues, and taxes hereinbefore mentioned, and applying the funds realized from the same for the purposes aforesaid, and for carrying out the Regulations now made, be it further ordered that such Committee, when appointed, shall have full

power and authority to levy and apply such rates, dues, and taxes for the purposes aforesaid, and shall have power and authority to sue for all arrears of such rates, dues, and taxes, and recover the same from all defaulters in the Courts under whose jurisdiction such defaulters may be, and shall also have power to enter and distrain on lands and tenements, and to seize and sell goods in respect of which rates, dues, and taxes are in arrear or unpaid.

XI.—*Committee or Council have Power to make Bye-Laws.*

When in pursuance of these Regulations the above-mentioned Committee or Council shall have been duly elected, all the power, authority, and control conferred by the bye-laws now sanctioned and annexed to these Regulations, and all the rights and property which by such bye-laws are declared to belong to any Committee or Council, elected as aforesaid, shall vest in and absolutely belong to such Committee or Council, and to their successors in office, and such successors as are duly elected; and such Committee shall have power and authority from time to time to make other bye-laws for the better enabling them to carry out the object of these Regulations, and to repeal, alter, or amend any such bye-laws, provided such other bye-laws be not repugnant to the provisions of these Regulations, and be duly confirmed and published; and provided also that no bye-laws made by the Committee under the authority of these Regulations, except such as relate solely to their Council, or their officers or servants, shall come into operation until passed and approved by the Consuls and Ministers of foreign Powers having Treaties, or a majority of them, and the ratepayers in special meeting assembled; of which meeting, and the object of it, *ten days'* notice shall be given.

XII.—*Auditing Accounts.*

And whereas it is also expedient that due provision should be made for the auditing of the accounts of the said Committee, and for the obtaining the approval and sanction of them by the ratepayers in public meeting duly assembled, be it ordered that the result of the said au lit shall be made known, and the said sanction and approval shall be made at the annual public meeting convened by the Consuls as hereinbefore mentioned.

XIII.—*Sueing Defaulters.*

And it is further ordered that it shall be lawful for the said Committee, or their Secretary, to sue all defaulters in the payment of all assessments, rates, taxes, and dues whatsoever, levied under these Regulations, and of all fines and penalties leviable under the bye-laws annexed to them, in the Consular or the Courts under whose jurisdiction such defaulters may be, and to obtain payment

of the same by such means as shall be authorized by the Courts in which such defaulters are sued. Provided that in case the Committee or Council shall be unable to discover the owner of goods in respect of which assessments, rates, dues, or taxes are in arrear or unpaid, or whose said owner shall be beyond the jurisdiction of the Consular or judicial authorities, or where any one or more of the said defaulters or owners, shippers or consignees of goods refusing to pay have no Consular representatives at Shanghae, the said Committee shall, with the consent of the local authorities, be at liberty to detain and sell such portion of the goods, or use such other means as, with the consent of the local authorities, may be necessary to obtain such payment of such assessments, rates, taxes, dues, fines, and penalties, or in respect of land or house assessment, to distrain on the land or houses to such extent as may be required to satisfy such assessment or dues.

XIV.—*Recovering of Penalties under Bye-Laws.*

Be it also further ordered that any penalty or forfeiture or fees on licences provided for in the bye-laws framed under the authority of these Regulations, and imposed in pursuance of such bye-laws, may be recovered by summary proceedings before the proper Consular or other authority, and it shall be lawful for such authority upon conviction to adjudge the offender to pay the penalty or incur the forfeiture, as well as the costs attending the conviction, as such authority may think fit. All fines and penalties levied under these Regulations, and the bye-laws framed and to be framed under them, shall be carried to the credit of the Committee in diminution of the general expenditure authorized by the provisions of these Regulations.

XV.—*Consuls may at any time call Meeting of Land-Renters and others, &c.*

Be it further ordered that it shall be competent for the foreign Consuls, collectively or singly, when it may appear to them needful, or for the electors, provided not less than twenty-five agree in writing so to do, to call a public meeting at any time, giving *ten days'* notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the Municipality. And all Resolutions passed by a majority at any such public meeting, including proxies for absent owners of land, on all such matters as aforesaid, shall be valid and binding upon the whole of the said electors if not less than *one-third* of the electors are present or represented. At such meeting the senior Consul present shall take the chair and in the absence of a Consul, then such elector as the majority of voters present may nominate. In all cases in which electors in public meeting assembled, as herein provided, decide upon any matter of a municipal nature, not already enumerated, and affecting the general interests, such

decision shall first be reported by the Chairman to the Consuls for their concurrence and approval, and unless such approval be given, such Resolution shall not be valid and binding. Provided always that a term of *ten days* shall elapse between the date of the Resolution and the signification of approval by the Consul, during which time any person considering himself prejudiced in property or interests by the Resolution may represent his case to the Consuls for their consideration. After the expiration of the term of *two months*, the Consular approval, if signified, shall be considered binding.

XVI.—*Cemeteries for Foreigners, Chinese Graves, &c.*

Within the said limits lands may be set apart for foreign cemeteries. In no case shall the graves of Chinese on land rented by foreigners be removed without the express sanction of the families to whom they belong, who also, so long as they remain unmoved, must be allowed every facility to visit and sweep them at the established period, but no coffins of Chinese must hereafter be placed within the said limits, or be left above ground.

XVII.—*Breach of Regulations.*

Hereafter, should information of a breach of these Regulations be lodged with any foreign Consul, or should the local authorities address him thereon, he may in every case within his jurisdiction summon, or cause to be summoned, the offender before him, and if convicted, punish him or cause him to be punished summarily, either by a fine not exceeding 300 dollars or by imprisonment not exceeding six months, or in such other manner as may seem just. Should any foreigner who has no Consular authority at Shanghae commit a breach of the said Regulations, then and in such case the Chinese chief authority may be appealed to by the Council through one or more of the foreign Consuls, to uphold the Regulations in their integrity, and punish the party so infringing them.

XVIII.—*Nomination and Voting for Council.*

It shall be competent to any two persons, being foreigners, entitled to vote, to nominate any duly qualified person for election as a member of the Council, and all such nominations shall be sent in, in writing, with the signature of the proposer and seconder, as also the written assent to serve of the candidates proposed, at least *seven days* before the day appointed for the election, to the Secretary or other officer appointed by the existing Council to receive such nomination.

On the day after the expiration of the time allowed for sending in such nominations as aforesaid, the existing Council shall cause a list of the ratepayers proposed for election to be advertised in the public journals, and shall likewise cause such list to be exhibited

thenceforward until the day of election in the council room, and other public places.

On the day appointed for the election, should the number of ratepayers proposed for election as Councillors exceed nine, two officers appointed by the existing Council for the purpose shall attend at the place appointed for the election to receive the votes of the ratepayers. These officers shall be provided with a list of all the ratepayers duly qualified to vote, and shall give to each *such ratepayers as may be present*,* and may require it, a voting card or paper containing a list of the ratepayers proposed for election. The voter shall then mark on such voting lists the names of any number of persons, not exceeding nine, for whom he intends to vote, and shall deposit the list signed by himself, with his own name so marked, in a closed box provided for the purpose of receiving such list.

The poll shall remain open for two consecutive days, from 10 A.M. to 3 P.M., at which hour on the second day the poll shall be closed. Immediately upon the close of the poll two scrutineers appointed by the Council shall without delay proceed to open the box or boxes, examine the voting lists, and declare the names of the nine ratepayers who have the greatest number of votes, and who shall thereupon be considered duly elected as the Council for the ensuing municipal year.

Should the number of names proposed for election be exactly nine, or less than nine and more than four, it shall not be necessary to have a poll; but, on the day after the expiration of the time appointed for sending in nominations, the existing Council shall advertise and make known the names of the nine or lesser number of ratepayers proposed, and they shall be considered to be duly elected as the Council for the ensuing municipal year.

Should the number of names proposed for election be less than five, then on the day after the expiration of the time appointed for sending in nominations the existing Council shall advertise and make known the names of the ratepayers, to be held on the day appointed for the election, at which meeting the ratepayers present shall proceed to elect, either by ballot or otherwise as they may then decide, as many more ratepayers as may be requisite to make the number before proposed up to five at the least, and such five or more ratepayers shall be considered duly elected as the Council for the ensuing municipal year.

XIX.—*Election of Council and Qualifications of Voters at Public Meetings.*

Every foreigner, either individually or as a member of a firm, residing in the settlement, having paid all taxes due, and being an owner of land of not less than 500 taels in value, whose annual payment of assessment on land, or houses, or both, exclusive of all

* Under these Regulations voting by proxy is practically prevented, as the ratepayer must be present.

payments in respect of licences, shall amount to the sum of 10 taels and upwards, or who shall be a householder paying on an assessed rental of not less than 500 taels per annum and upwards, shall be entitled to vote in the election of the said members of the Council, and at the public meetings, and no one shall be qualified to be a member of the said Council unless he shall pay an annual assessment, exclusive of licences, of 50 taels, or shall be a householder paying on an assessed rental of 1,200 taels per annum. Provided always that this clause shall not entitle any firm to more than one vote.

A list of persons duly qualified to vote according to the Regulations to which these bye-laws are appended shall be kept at the office of the Council, and such list shall be revised and corrected by the Secretary of the Council on the first day of March in each year, or so soon after as may be convenient, and published for the information of the public in such manner as the Council for the time being shall think proper.

XX.—*Vacancies.*

In case of a vacancy or vacancies occurring during their tenure of office, the existing Council shall have the power to fill up such vacancy or vacancies by the vote of the majority of the Council, providing such vacancies do not exceed three in number.

Should the vacancies exceed three, an election of the whole number of new members who have not been originally elected shall be called in the manner previously provided for by Article XVIII.

XXI.—*Tenure of Office.*

The Council shall enter upon their office as soon as the accounts of the retiring Committee shall have been audited and passed at the annual meeting mentioned in Articles IX and XII, and shall remain in office until their own accounts have been duly audited and accepted, and their successors assume direction. At their first meeting the new Council shall elect a Chairman and Vice-Chairman, who shall hold office for one year. In their temporary absence the members present at any meeting of the Council shall elect their Chairman for such meeting.

XXII.—*Questions and Quorum.*

On all questions in which the members of the Council present are equally divided in opinion, the Chairman shall have a second or casting vote. Three members of the Council shall constitute a quorum for the dispatch of business.

XXIII.—*Committees.*

The Council may from time to time appoint out of their own body such and so many Committees, consisting of such number of

persons as they shall think fit, for all or any of the purposes wherein they are empowered to act, which in the discretion of the Council would be better regulated and managed by means of such Committees, and may fix the quorum of such Committees.

XXIV.—*Officers.*

The Council may from time to time appoint such officers and servants as they think necessary for carrying out these Regulations, and fix the salaries, wages, and allowances of such officers and servants, and may pay the same out of the municipal funds, and make Rules and Regulations for the government of such officers and servants, and may discontinue or remove any of them from time to time as they shall think fit. Provided always, that no officers shall be appointed for any longer period than three years, unless the said appointment, together with the salary appertaining thereto, be sanctioned by a public meeting of the electors duly convened.

XXV.—*Funds.*

The Council shall administer the municipal funds for the public use and benefit, at their discretion, with due regard to the Budget passed, provided they do not exceed the sum voted at the annual meeting, or any special meeting called to vote expenses, and a statement shall be drawn up by them at the end of each year for which the Council has been elected, showing the nature and amount of the receipts and disbursements of the municipal funds for that year, and the said statement shall be published for general information at least *ten days* previous to the annual meeting hereinbefore mentioned.

XXVI.—*Persons acting in Execution of these Regulations not to be personally liable.*

No matter or thing done, or contract entered into, by the Council, nor any matter or thing done by any member thereof, or by the Secretary, Surveyor, Superintendent of Police, or other officer or person whomsoever, acting under the direction of the Council, shall, if the matter or thing were done, or the contract entered into *bonâ fide* for the purpose of executing these Regulations, subject them, or any of them, personally to any action, liability, claim, or demand whatsoever; and any expense properly and with due authority incurred by the Council, Members, Secretary, Surveyor, Superintendent of Police, or other officer or person acting as last aforesaid, shall be borne and repaid out of the rates levied under the authority of these Regulations.

XXVII.—*Council, how to be sued.*

And be it further ordered that the Executive Committee or

Council may sue and be sued in the name of their Secretary for the time being, or in their corporate capacity or character as "Council for the Foreign Community of Shanghae," and such Committee, Council, or Secretary shall have all the rights and privileges which private complainants have to recover and enforce judgments obtained by them, and shall also incur the obligations which private defendants have in proceedings at law or suits in equity commenced against them, provided that the individual members of the Council or their Secretary shall not be personally responsible, but only the property of the Council, and all proceedings against the said Council or their Secretary shall be commenced and prosecuted before a "Court of Foreign Consuls," which shall be established at the beginning of each year by the whole body of Treaty Consuls.

XXVIII.—*Amendment of Regulations hereafter.*

Hereafter, should any corrections be requisite in these Regulations, or should it be necessary to determine on further Rules, or should doubts arise as to the construction of, or powers conferred thereby, the same must be consulted upon and settled by the Foreign Consuls and local Chinese authorities, subject to confirmation by the Foreign Representatives and Supreme Chinese Government at Peking.

XXIX.—*That Land-Renters and Ratepayers shall be taken to mean "Electors."*

That the words "renters of land and ratepayers," wherever they occur in the foregoing Regulations, shall, where not otherwise indicated by the connection in which they occur, be taken to mean electors entitled to voto according to the terms of Article XIX.

BYE-LAWS,

Annexed to the Land Regulations for the Foreign Quarter of Shanghae, North of the Yang-king-pang.

I.—*Control and Management of Sewers and Drains.*

The entire control and management of all public sewers and drains within the limits of *these Regulations*, and all sewers and drains in and under the streets, with all the works and materials thereunto belonging, whether made at the time *these Regulations* become valid or at any time thereafter, and whether made at the cost of the Council or otherwise, shall vest in and belong to the Council.

II.—*Power to make Sewers and Drains.*

The Council shall, from time to time, cause to be made under the streets such main and other sewers as shall be necessary for the effectual draining of the town or district within such limits, and also all such reservoirs, sluices, engines, and other works as shall be necessary for cleaning such sewers, and, if needful, they may carry such sewers through and across all or any of the streets, doing as little damage as may be, and making compensation, to be determined by arbitration, or recoverable in the manner provided by these Regulations for any damage done; and if for completing any of the aforesaid works it be found necessary to carry them into or through any enclosed or other lands, the Council may, after reasonable notice, carry the same into or through such lands accordingly, making compensation as aforesaid to the owners and occupiers thereof; and they may also cause such sewers to communicate with and empty themselves into the river, or they may cause the refuse from such sewers to be conveyed by a proper channel to the most convenient site for collection and sale for agricultural or other purposes, as may be deemed most expedient, but so that the same shall in no case become a nuisance.

III.—*Power to enlarge and alter Sewers and Drains.*

The Council may from time to time, as they see fit, enlarge, alter, arch over, and otherwise improve, all or any of the sewers vested in them; and if any of such sewers at any time appear to them to have become useless, the Council, if they think fit to do so, may demolish and discontinue such sewers, provided that it be so done as not to create a nuisance.

IV.—*Penalty on any unauthorized Person for making any Drain flow into a public Sewer without consent of Council.*

Every person, not being employed for that purpose by the Council, who shall make any drain into any of the sewers or drains so vested in the Council, shall forfeit to the Council a sum not exceeding 100 dollars; and the Council may cause such branch drain to be re-made, as they think fit, and all the expense incurred thereby shall be paid by the person making such branch drain, and shall be recoverable by the Council as damages.

V.—*No Person to build over any public Sewer without consent of Council.*

No sewer or drain shall be made, or any building be erected over any sewer belonging to the Council, without the consent of the Council first obtained in writing: and if after the passing of these *Regulations* any sewer or drain be made, or any building be erected contrary to the provisions herein contained, the Council

may demolish the same, and the expenses incurred thereby shall be paid by the person erecting such building, and shall be recoverable as damages.

VI.—*Sewers and Drains to be provided with Traps.*

All sewers and drains within the limits of these Regulations, whether public or private, shall be provided by the Council, or other persons to whom they severally belong, with proper traps or other coverings or means of ventilation, so as to prevent stench.

VII.—*Expense of maintaining and cleansing all Sewers and Drains.*

The expense of maintaining and cleansing all sewers, not hereinbefore provided for, shall be defrayed out of the rates and taxes to be levied under Article IX of these Regulations.

VIII.—*No one to build or rebuild a House until a covered Drain be constructed.*

It shall not be lawful to erect any house within such limits, or to rebuild any house in the settlement, until a drain or drains be constructed, of such size and materials, and at such level, and with such fall, as upon the report of the Surveyor, made to the Council, shall appear to be necessary and sufficient for the proper and effectual drainage of the same and its appurtenances; such report to be made within fourteen days after notice is given to the said Surveyor of the proposed erection or rebuilding, and in default thereof all parties shall be at liberty to proceed with any such erection or building as if no such report were required; and if a sewer of the Council, or a sewer which they are entitled to use, be within 100 feet of any part of the site of the house to be built or rebuilt, the drain or drains so to be constructed shall lead from and communicate with such sewer as the Council shall direct; or if no such means of drainage be within that distance, then the last-mentioned drain or drains shall communicate with and be emptied into such covered cesspool, or other place not being under any house, and not being within such distance from any house, as the Council shall direct; and whosoever erects or rebuilds any house, or constructs any drains contrary to this bye-law, shall be liable for every such offence to a penalty or fine not exceeding 250 dollars; and if at any time, upon the report of the Surveyor, it appear to the Council that any house, whether built before or after the passing of this bye-law, is without any drain, or without such a drain or drains communicating with a sewer, as is or are sufficient for the proper and effectual drainage of the same and its appurtenances; and if a sewer of the Council, or a sewer which they are entitled to use, be within 100 feet of any part of such house, they shall cause notice in writing to be given to the owner or occupier of such house, requiring him forthwith, or within such reasonable time as

shall be specified therein, to construct and lay down, in connection with such house, one or more drain or drains, of such materials and size, at such level, and with such fall, as upon the last-mentioned report shall appear to be necessary; and if such notice be not complied with, the Council may, if they shall think fit, do the works mentioned or referred to therein: and the expenses incurred by them in so doing, if not forthwith paid by the owner or occupier, shall be defrayed by the Council, and by them be recovered from the owner of the house in the same manner as a penalty under these bye-laws is recoverable.

IX.—*Council shall be Surveyors of Highways.*

The Council, and none other, shall be surveyors of all highways within the aforesaid limits, and within those limits shall have all such powers and authorities, and be subject to all such liabilities, as any surveyors of highways are usually invested with.

X.—*Management of Streets and the Repairs thereof to vest in Council.*

The management of all the public streets, and the laying out and repairing thereof on passing of these Regulations, or which thereafter may become public highways, and the pavements and other materials, as well in the footways as carriage-ways of such public streets, and all buildings, materials, implements, and other things provided for the purposes of the said highways shall belong to the Council.

XI.—*Council may stop up any Street pending construction, &c., of a Sewer.*

The Council may stop any street, and prevent all persons from passing along and using the same, for a reasonable time, during the construction, alteration, repair, or demolition of any sewer or drain in or under such street, so long as they do not interfere with the ingress or egress of persons on foot to or from their dwellings or tenements.

XII.—*Penalty on making unauthorized Alterations in Streets.*

Every person who wilfully displaces, takes up, or makes any alteration in the pavement, flags, or other materials of any street under the management of the Council, without their consent in writing, or without other lawful authority, shall be liable to a penalty or fine not exceeding 25 dollars, and also a further sum not exceeding 1 dollar, for every square foot of the pavement, flags, or other materials of the street so displaced, taken up, or altered.

XIII.—*Council may alter situation of Gas or Water Pipes.*

For the purposes of these Regulations, if the Council deem it necessary to raise, sink, or otherwise alter the situation of any waterpipe, or gaspipe laid in any of the streets, they may from time to time, by notice in writing, require the person or persons to whom any such pipes or works belong to cause forthwith, as soon as conveniently may be, any such pipes or works to be raised, sunk, or otherwise altered in position, in such manner as the Council direct; provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and compensation for every damage done thereby, shall be paid by the Council out of the rates and taxes levied under these Regulations.

If the person or persons to whom any such pipes or works belong do not proceed forthwith, or as soon as conveniently may be after the receipt of such notice, to cause the same to be raised, sunk, or altered in such manner as the Council require, the Council may themselves—but then at the costs and charges of the person or persons to whom the pipes or works belong, such costs and charges to be recoverable in the same way as the penalties enacted under these bye-laws—cause such pipes or works to be raised, sunk, or altered as they think fit; provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

XIV.—*Waterspouts to be affixed to Houses or Buildings.*

The occupier of every house or building in, adjoining, or near to any street, shall within *fourteen days* next after service of an Order of the Council for that purpose put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath, and in default of compliance with any such order within the period aforesaid, such occupier shall be liable to a penalty or fine not exceeding 10 dollars for every day that he shall so make default.

XV.—*Penalty for not lighting deposits of Building Material or Excavations.*

When any building materials or other things are laid, or any hole made in any of the streets, whether the same be done by order of the Council or not, the person or persons causing such

materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising, while such materials or hole remain; and such person shall at his own expense cause such materials or other things, and such hole to be sufficiently fenced and inclosed until such materials or other things are removed, or the hole filled up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty or fine not exceeding 25 dollars, and a further penalty or fine not exceeding 10 dollars for every day while such default is continued.

XVI.—*Penalty for continuing deposits of Building Materials or Excavations an unreasonable Time.*

In no case shall any such building materials or other things, or such hole be allowed to remain for an unnecessary time, under a penalty or fine not exceeding 25 dollars, to be paid for every such offence by the person who causes such materials or other things to be laid, or such hole to be made, and a further penalty or fine not exceeding 10 dollars for every day during which such offence is continued after the conviction for such offence, and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

XVII.—*Dangerous places to be repaired or inclosed.*

If any building, or hole, or other place near any street be, for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the Council shall cause the same to be repaired, protected, or inclosed, so as to prevent danger therefrom, and the expenses of such repair, protection, or inclosure shall be repaid to the Council by the owner of the premises so repaired, protected, or inclosed, and shall be recoverable from him as damages.

XVIII.—*Cleansing Streets. Council to cause Streets to be cleansed and Dust and Ashes to be removed from the Houses.*

The Council shall cause all the streets, together with the foot pavements, from time to time to be properly swept and cleansed, and all dust and filth of every sort found thereon to be collected and removed, and shall cause all the dust, ashes, and rubbish to be carried away from the houses and tenements of the inhabitants of the town and district within such limits, at convenient hours and times, and shall cause the privies and cesspools within the said

town or district to be from time to time emptied and cleansed in a sufficient and proper manner.

XIX.—*Council may compound for sweeping footways.*

The Council may compound, for such time as they think fit, with any person liable to sweep or clean any footway under the provisions of these Regulations, for sweeping and cleaning the same in the manner directed by these Regulations.

XX.—*Ruinous Buildings.*

If any building or wall be deemed by the Surveyor of the Council to be in a ruinous state, and dangerous to passengers or to the occupiers of the neighbourhood, such Surveyor shall immediately make complaint thereof to the Consul of the nation of the person or persons to whom the building belongs, and it shall be lawful for such Consul to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure to the satisfaction of such Surveyor, within a time to be fixed by such Consul; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the Council shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition and dangerous, as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured, in such manner as shall be requisite, and all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner or owners thereof.

XXI.—*Expenses of removal of ruinous Buildings.*

If such owner or owners can be found within the said limits, and if on demand of the expenses aforesaid he neglect or refuse to pay the same, then such expenses may be levied by distress, and the Consul, on the application of the Council, may issue his warrant accordingly.

XXII.—*When owners of ruinous Buildings cannot be found.*

If such owner cannot be found within such limits, or sufficient distress of his goods and chattels within such limits cannot be made, the Council, after giving *twenty-eight days'* notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building, or on the land whereon such building stood, and by giving notice in the local newspapers under the head of "Municipal Notification," may take such building or land, sell the same by public auction, and from and out of the

hours from the Council to remove the same, and every person who allows the contents of any privy or cesspools to overflow or soak therefrom, to the annoyance of the occupiers of any adjoining property, or who keeps any pig or pigs within any dwelling-house within such limits, so as to be a nuisance, shall for every such offence be liable to a penalty or fine not exceeding 10 dollars, and to a further penalty or fine not exceeding 2 dollars for every day during which such nuisance continues; and the Council may drain and cleanse out any stagnant pools, ditches, or ponds of water within such limits, being a nuisance, and abate any such nuisance as aforesaid, and for that purpose may enter, by their officers and workmen, into and upon any building or land within such limits at all reasonable times, and do all necessary acts for any of the purposes aforesaid; and the expenses incurred thereby shall be paid by the person committing such offence, or occupying the building or land whence such annoyance proceeds, and if there be no occupier, by the owner of such building or land, and shall be recoverable as damages.

XXVIII.—*Regulation to prevent Accumulations of Dung, &c.*

If the dung or soil of any stable, cow-house, or pig-stye, or other collection of refuse matter, elsewhere than in any farmyard, be at any time allowed to accumulate within such limits for more than *seven days*, or for more than *two days* after a quantity exceeding one ton has been collected in any place not allowed by the Council, such dung, soil, or refuse, if not removed within *twenty-four hours* after notice from any officer of the Council for that purpose, shall become the property of the Council, and they, or any person with whom they have at the time any subsisting contract for the removal of refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the Council, or they may recover the expense of such removal from the occupier of the building or land as damages.

XXIX.—*Certificate of the Officer of Health. Filth to be Removed.*

If at any time the Officer of Health, or, if for the time being there be no Officer of Health, any two surgeons or physicians, or one surgeon and one physician, residing within such limits, certify under his or their hands to the Council that any accumulation of dung, soil, or filth, or other noxious or offensive matter within such limits, ought to be removed, as being injurious to the health of the inhabitants, the Secretary of the Council shall *forthwith* give notice to the owner or reputed owners of such dung, soil, or filth, or to the occupier of the land where the same are, to remove the same within *twenty-four hours* after such notice; and in case of failure to comply with such notice, the said dung, soil, or filth shall thereupon become vested in the Council, and they, or any person with whom they have at that time contracted for the removal of all

such refuse, may sell and dispose of the same, and the money thence arising shall be applied towards the purposes of the Council, and they may recover the expense of such removal from such occupier or owner in the same manner as damages.

XXX.—*Houses to be Whitewashed and Purified on Certificate of Officers of Health, &c.*

If at any time the Officer of Health, or if for the time being there be no Officer of Health, any two surgeons or physicians or one surgeon and one physician, residing within such limits, certify under his or their hands to the Council that any house, or part o any house or building within such limits, is in such a filthy or unwholesome condition that the health of the inmates or of the neighbours is thereby affected or endangered, or that the whitewashing, cleansing, or purifying of any house or building, or any part thereof, would tend to prevent or check infectious or contagious disease therein, or that any drain, privy, or cesspool is in such a defective state that the health of the neighbours is thereby affected or endangered, the Council shall order the occupier of such house, or part thereof, to whitewash, cleanse, and purify the same, and the owner of such drain, privy, or cesspool to amend the condition thereof in such manner and within such time as the Council deem reasonable; and if such occupier or owner do not comply with such order, he shall be liable to a penalty or fine not exceeding 10 dollars for every day's neglect thereof; and in such case the Council may cause such house, or any part thereof, to be whitewashed, cleansed, and purified, or the condition of such drain, privy, or cesspool to be amended, and may recover the expense thereof from such occupier or owner in the same manner as damages.

XXXI.—*Council may order Nuisances to be Abated.*

If any candle-house, melting-house, melting-place, or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling or crushing bones, or any pig-stye, necessary house, dung-hill, manure-heap, or any manufactory, building, or place of business within such limits be at any time certified to the Council by the Inspector of Nuisances or Officer of Health, or if for the time being there be no Inspector of Nuisances or Officer of Health, by any two surgeons or physicians or one surgeon and one physician, to be a nuisance or injurious to the health of the inhabitants, the Council shall direct complaint to be made before the Consul of the nation of the person by or on whose behalf the work complained of is carried on, and such Consul shall inquire into such complaint, and may, by an order in writing under his hand, order such person to discontinue or remedy the nuisance within such time as to him shall appear expedient. Provided always that if it appear to such Consul that in carrying on any business complained of the best means then known to be available

for mitigating the nuisance or the injurious effects of such business have not been adopted, he may suspend his final determination upon condition that the person so complained against shall undertake to adopt within a reasonable time such means as the said Consul shall judge to be practicable, and order to be carried into effect for mitigating or preventing the injurious effects of such business.

XXXII.—*Obstruction of Scavengers.*

Every occupier of any building or land within such limits, and every other person who refuses to permit the scavengers employed by the Council to remove such dirt, ashes, or rubbish as by these bye-laws they are authorized to do, or who obstructs the said scavengers in the performance of their duty, shall for every such offence be liable to a penalty or fine not exceeding 25 dollars.

XXXIII.—*Dangerous Buildings.*

No straw shed, bamboo-houses, or buildings of like inflammable material shall be erected within such limits, nor shall contraband goods or merchandize likely to endanger life or cause injury to individuals, such as gunpowder, saltpetre, sulphur, large quantity of spirits in bulk, petroleum, naphtha, and other explosive gases or liquids stand on the premises of any individual under a penalty or fine, recoverable from the offender, not exceeding 250 dollars for the first offence, and not exceeding 500 dollars, with confiscation of the goods themselves to the use of the Council, for each succeeding offence. On articles of this nature being brought within such limits, immediate notice must be given by the importer, consignee, or owner thereof to the Secretary of the Council, whose duty it will be to assign the locality or place within which such goods may be safely stored, and every refusal to obey, or disobedience of the order of the Secretary in this behalf, shall be visited upon the offender with a penalty or fine not exceeding 250 dollars, and a penalty or fine not exceeding 100 dollars for every *twenty-four hours* of continued disobedience, and such penalty together with the preceding penalty, and all other fines and penalties declared by these bye-laws, shall be recoverable in a summary manner before the Consul or Court having jurisdiction over the offender or defaulter.

XXXIV.—*Licenses.*

No person shall open or keep a house of public entertainment, music hall, theatre, circus, billiard, bowling or dancing saloon, or shop or store for the sale of wines, spirits, beer, intoxicating drugs, butchers' meat, poultry or game, slaughter-house or livery stable, or sell or vend any wines, spirits, beer, intoxicating drugs, butchers' meat, poultry, or game, or ply, let or use for hire any boat, horse,

or public vehicle, within such limits, without a license first obtained from the Council, and in the case of foreigners countersigned by the Consul of the nationality to which such person belongs. In respect of such licenses, the Council may impose such conditions and exact such security as the nature of the particular case may require, and charge such fees in respect thereof as may be authorized, at the annual general meeting of ratepayers. And any person offending against or infringing the provisions of this bye-law shall be liable for every offence to a fine not exceeding 100 dollars.

XXXV.—*Disturbance in Streets.*

All persons firing guns or pistols, causelessly creating a noise or disturbance, and all persons guilty of furious or improper riding or driving, or the leading of horses up and down any thoroughfare for exercise, or who shall commit any act which may legitimately come within the meaning of the term nuisance, shall be liable to a penalty or fine not exceeding 10 dollars.

XXXVI.—*Lamps.*

All persons driving carriages or carts of any description, between one hour after sunset and one hour before sunrise, and not affixing lighted lamps to their vehicles, shall be liable to a penalty or fine not exceeding 5 dollars for each omission.

XXXVII.—*Carrying Arms.*

No person within such limits, except Consular officers and the officers of the Council duly authorized, and military and naval officers, volunteers or soldiers, or soldiers of any Government force in uniform or on duty, shall under any pretence carry offensive or defensive arms, such as guns, pistols, swords, daggers, loaded sticks, slung shots, knives, or any weapon of like character, under a penalty or fine not exceeding 10 dollars, or one week's imprisonment, with or without hard labour. Provided that nothing in this bye-law be construed to extend to the carrying of fowling-pieces for the purpose of shooting game.

XXXVIII.—*Transient Offender.*

It shall be lawful for any officer or agent of the Council, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of these bye-laws, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient dispatch, before his proper Consul, without any warrant or other authority than these bye-laws.

XXXIX.—*Penalty for Disobedience of orders of Consuls.*

If any such nuisance, or the cause of any such injurious effects as aforesaid, be not discontinued or remedied within such time as shall be ordered by the said Consul, the person by or on whose behalf the business causing such nuisance is carried on shall be liable to a penalty or fine not exceeding 25 dollars for every day during which such nuisance shall be continued or unremedied after the expiration of such time as aforesaid.

XL.—*Bye-Laws.*

Nothing in these bye-laws contained shall be construed to render lawful any act or omission on the part of any person which is, or would be, deemed to be a nuisance at common law, from prosecution or action in respect thereof, according to the forms of proceeding at common law, nor from the consequences upon being convicted thereof

XLI.—*Penalties to be summarily Recovered.*

Every penalty or forfeiture imposed by these bye-laws made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before the proper Consular representative, and it shall be lawful for such Consular representative, upon conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction, as such Consular representative shall think fit.

XLII.—*Publication of Bye-Laws.*

These bye-laws shall be printed, and the Secretary of the Council shall deliver a printed copy thereof to every ratepayer applying for the same, without charge; and a copy thereof shall be hung up in the front, or in some conspicuous part of the principal office of the Council.

RULES OF PROCEDURE TO BE OBSERVED AT MEETINGS OF RATEPAYERS.

I.—*Notice of Meeting to state Business.*

When a meeting of ratepayers is convened, whether for general or special purposes, under provisions of Articles IX and XV of the Land Regulations, 1870, the notice of meeting shall state the business to be brought forward at such meeting.

II.—*Notice to be given of Subjects intended to be brought forward.*

No proposition or question shall be admitted for consideration during a meeting unless it arises directly out of any subject actually under discussion, and which has been duly notified, as above, in the notice convening the meeting; or unless a written Memorandum of such proposition or question be lodged with the Secretary of the Council *three* days before the date on which the meeting is convened. In the latter case a copy of such Memorandum will be published by the Council in the "North China Daily News" on the days before and of the meeting.

III.—*Election of Chairman and Secretary.*

After the chair has been taken, as provided for by the Land Regulations of 1870, the meeting shall proceed to elect a Secretary for the then meeting.

IV.—*Quorum requisite of Ratepayers present.*

Before the Chairman can declare a special meeting, called under the provisions of Article XV of the Land Regulations, 1870, formally constituted under the provisions of the Land Regulations, 1870, the Secretary of the Council shall announce that the requisite number of ratepayers are present or represented, and have registered their votes. No vote will be accepted at any meeting unless supported by a formal voting ticket, to be registered before entering the meeting room, to be supplied to each ratepayer on application to the Secretary of the Council.

V.—*Absence of Voter and disposition of Vote.*

A voter having once recorded his vote shall, in the event of his absence during division or divisions in session, be considered as having left his proxy with the Chairman of the Council, unless he leaves a proxy in other hands.

VI.—*Order of Business.*

The meeting being duly opened, the Chairman shall read the notice convening it, and shall proceed with the business of the day in such order as is set down in the notice; and no subject shall be regarded as duly before the meeting unless put from the Chair.

VII.—*Reference to Business already disposed of.*

No reference will be allowed to any subject or business already disposed of unless by special consent of the Chairman, or of a majority of the ratepayers present or represented at a meeting

A Resolution once passed can only be rescinded, or modified, by a majority of not less than *three-fourths* of the voters present or represented.

VIII.—*Resolutions.*

Every Resolution, or Amendment, must be in writing, and signed by the mover and seconder, before it can be put from the Chair.

IX.—*Amendments.*

The mode of procedure with regard to amendments shall be as follows: Any number of amendments may be moved; after which, the Chairman of the meeting shall put the question for and against, beginning with the amendment last proposed, until some one of the motions be carried, or all be rejected. The negativing of any amendment, however, shall not import the affirmance of the immediately preceding motion; but such motion, whether an original one or an amendment on it, shall then, in its turn, be submitted to the meeting for affirmance or rejection.

X.—*Divisions.*

Upon a division being called for, the Chairman shall direct the Secretary to read the list of ratepayers present at the meeting, and each ratepayer shall, as his name is read, declare whether he votes in the affirmative or the negative, and the number of votes which he casts. The result shall then be declared by the Chairman.

XI.—*Pro formâ Readings.*

All documents which come before a ratepayers' meeting shall, if they have been previously exhibited for *three* clear days (exclusive of holidays) at the Council Room, be accepted as read.

XII.—*Rules of Debate.*

Each speaker will address himself to the Chair. As a rule, except it be in explanation of the subject under discussion, or final reply, ratepayer shall address the meeting but *once* on each subject. Any departure from this rule to be permitted only at the discretion of the Chairman.

XIII.—*Publication of Proceedings.*

The proceedings of a ratepayers' meeting shall be published as soon after it has taken place as possible. The title of such proceedings shall be "Debates, Proceedings and Votes of the Shanghae Ratepayers, in public meeting assembled on ————."

XIV.—*Casting Vote.*

On all questions where the ratepayers present or represented are equally divided in opinion, the Chairman shall have a second or casting vote.

XV.—*Questions of Order.*

On all questions of order the decision of the Chairman shall be final, unless overruled by three-fourths of the voters present and represented.

XVI.—*Modification of these Rules.*

These Rules of Procedure to be subject to modification if necessary by any meeting of the ratepayers formally assembled, and after due notice, as per Rule No. XI (page 567).

(No. 76.) *PORT, CONSULAR, CUSTOMS, AND HARBOUR REGULATIONS, applicable to all the Treaty Ports in China.*—31*st May*, 1869.*

[As Amended and Re-issued by Sir T. Wade in 1881.]

THE undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary and Chief Superintendent of British trade in China, acting under the authority conferred upon him by the 85th Section of the China and Japan Order in Council, 1865, hereby declares the following Regulations, made, in pursuance of the above Order in Council, to secure the observance of Treaties and the maintenance of friendly relations between British subjects and Chinese subjects and authorities, to be applicable to all ports which are or may hereafter become, open to British trade:—

I. The British Consulate offices at the several open ports shall be opened for public business from 10 o'clock A.M. to 4 o'clock P.M. daily, excepting Sundays, Christmas day, Good Friday, Queen's birthday, Easter Monday, and those holidays upon which public offices in England are closed, and Chinese New Year's day and such Chinese holidays as the Chinese Customs authorities may observe.

II. On the arrival of any British vessel at the anchorage of any of the open ports, the master shall, within 24 hours, deposit his ship's papers, together with a summary of the manifest of her cargo, at the Consulate office, unless a Sunday or holiday shall intervene.

III. Every British vessel must show her national colours on entering the port or anchorage, and keep them hoisted until she shall have been reported at the Consulate and her papers deposited there.

IV. No British vessel or any vessel the property of a British subject, unless provided with a certificate of registry, or provisional or other pass from the Superintendent of Trade at Peking or from the Colonial Government at Hong Kong, shall hoist the British ensign within any port or anchorage, or any flag similar to the British ensign, or of a character not to be easily distinguishable from it. Nor shall any registered British vessel flying the Red ensign hoist any other ensign or flag (except she be entitled to fly the Blue ensign) in use by Her Majesty's vessels of war, or the national ensign of any foreign State or any ensign or flag not plainly distinguishable from the ensigns used by Her Majesty's ships of war or from those flown by ships of foreign States.

V. Should any seaman absent himself without permission, the master shall forthwith report the circumstance at the Consulate

* Approved by Her Majesty's Government 21st August, 1869; confirmed by Order in Council, 25th October, 1881. Page 619.

office, and take the necessary measures for the recovery of the absentee, and it shall be lawful for the Consul, if circumstances shall require it, in his discretion to prohibit leave being given to seamen to come ashore, and any master who shall violate such prohibition shall incur the penalties hereinafter declared.

VI. The discharge of guns or other firearms from vessels in harbour is strictly prohibited, unless permission shall have been granted by the Consul.

VII. Masters of vessels when reporting their arrival at a port shall notify in writing the names of all passengers and persons not forming part of the articled crew on board, and previous to leaving, notice must be given of the number and names of all persons, not forming part of the articled crew, intending to leave the port on board any vessel.

VIII. All cases of death occurring at sea must be reported to the Consul within 24 hours of the vessel's arriving in port or harbour, and all cases of death on board vessels in harbour or in the residences of British subjects on shore, must be immediately reported at the Consulate office, and in the event of sudden or accidental death the fullest information obtainable should be given. It is strictly prohibited to throw overboard the bodies of seamen or other persons dying on board of a vessel in harbour. Except in case of urgent necessity, no burial should take place on shore or from any ship in harbour without the licence of the Consul first obtained.

IX. Stone or ballast shall not be thrown overboard in any port or harbour, unless permission shall have been first obtained from the local authorities through the intervention of Her Majesty's Consular officer.

X. All cases of loss of property by theft or fraud on board ships, as well as of assault or felony requiring redress or involving the public peace, must be immediately reported at the Consulate office.

If any Chinese subject guilty of, or suspected of, having committed, a misdemeanour on shore or afloat be detained, information must in such cases be forthwith lodged at the Consulate office, and in no instance shall British subjects be permitted to use violence towards Chinese offenders or take the law into their own hands.

XI. Any vessel having in the whole above 200 lbs. of gunpowder or other explosive material on board, shall not approach nearer than a distance of one mile from the limits of the anchorage. On arriving at that distance, she must be forthwith reported to the Consular authority.

Special anchorages or stations will be assigned for such ships in the neighbourhood of the ports.

XII. No seamen or other person belonging to a British ship may be discharged or left behind at any port or anchorage without the express sanction of the Consul, and not then until sufficient security shall have been given for his maintenance and good behaviour while remaining on shore, and if required, for the ex-

penses incident to his shipment to a port in the United Kingdom or to a British colonial port, according as the seaman or other person is a native of Great Britain or of any British Colony.

If any British subject left at a port or anchorage by a British vessel be found to require public relief prior to the departure of such vessel from the dominions of the Emperor of China, the vessel will be held responsible for the maintenance and removal from China of such British subject.

XIII. When a vessel is ready to leave a port or anchorage, the master or consignee shall apply at the Chinese Custom-House for a Chinese port clearance, and on his presenting this document, together with a copy of the manifest of his export cargo, at the Consular office, his ship's papers will be restored to him, and he will be furnished with a Consular port clearance, on receiving which the vessel will be at liberty to leave the port. Should any vessel take in or discharge cargo subsequent to the issue of the Customs clearance, the master will be subject to a penalty, and the ship to such detention as may be necessary to the ends of justice.

XIV. When a vessel is ready to leave a port or anchorage, the master shall give notice thereof to the Consul, and shall hoist a Blue Peter at least 24 hours before the time appointed for her departure. The Consul may dispense with the observance of this regulation on security being given that claims presented within 24 hours will be paid.

XV. No British subject may establish or carry on an hotel, boarding or eating-house, house of establishment, or shop for the sale of liquors within the Consular district without the sanction and licence of the Consul, and payment of such fees in respect of such licence, yearly or otherwise, as may be duly authorised. The Consul shall require every person so licensed to give security for the good conduct of all inmates and frequenters of his house, and also that he will not harbour any seaman who is a runaway or who cannot produce his discharge accompanied by a written sanction from the Consul to reside on shore.

Every person so licensed will be held accountable for the good conduct of all inmates and frequenters of his house, and in case of their misconduct may be sued upon the instrument of security so given.

XVI. Any British subject desiring to proceed up the country to a greater distance than 30 miles from any Treaty port is required to procure a Consular passport, and any one found without such a passport beyond that distance will be liable to prosecution.

XVII. The term Consul in these Regulations shall be construed to include all and every officer in Her Majesty's Consular service, whether Consul General, Consul, Vice-Consul or Consular Agent, or other person duly authorised to act in any of the aforesaid capacities within the dominions of the Emperor of China.

XVIII. British vessels are bound, as to mooring and pilotage, to act in accordance with the Harbour and Pilot regulations authorised in each port by Her Majesty's Minister for the time being, and any

infraction of the same shall render the party offending liable to the penalties attached to these regulations.

XIX. No loading or discharging of cargo may be carried on except within the limits of the anchorage defined by the Consul and the Chinese authorities of each port.

XX. Any infringement of the preceding General Port Regulations or of the Special Regulation referred to in Regulations XVIII and XIX, shall subject the offender, for each offence, to imprisonment for any term not exceeding three months, with or without hard labour, and with or without a fine not exceeding 200 dollars, or to a fine not exceeding 200 dollars, without imprisonment, and with or without further fines for continuing offences not exceeding in any case 25 dollars for each day during which the offence continues after the original fine is incurred; such fine to be inflicted, levied, and enforced in accordance with the Order of Her Majesty in Council, dated the 9th day of March, 1865.

And in consideration of the urgent necessity for these Regulations, the Undersigned hereby further declares that they shall have effect unless and until they shall be disapproved by Her Most Gracious Majesty, and notification of such disapproval shall be received and published by me or other of Her Majesty's ministers in China.

NOTE.—All fines levied by virtue of or under the General or Special Port Regulations, are to be applied as directed by the China and Japan Order in Council, 1865, in diminution of the public expenditure, unless otherwise specially ordered.

THOMAS FRANCIS WADE.

Peking, 28th March, 1881.

(No. 77.) *MARITIME ORDER IN COUNCIL, relating to China and Japan.**—*Osborne, 6th August*, 1874.

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* An analysis of the Japanese Commercial Treaties was published in a separate volume in 1879.

At the Court at Osborne House, Isle of Wight, the 6th day of August, 1874.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by an Act of Parliament passed in the session of the 6th and 7th years of Her Majesty's reign (chapter 80),* and intituled "An Act for the better Government of Her Majesty's Subjects resorting to China," it was enacted (among other things) that it should be lawful for Her Majesty, by any Order or Orders made with the advice of Her Privy Council to ordain for the government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within any ship or vessel at a distance of not more than 100 miles from the coast of China, any law or ordinance which to Her Majesty in Council might seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council, for the government of Her Majesty's subjects being within Her Majesty's Island of Hong Kong:

And whereas by another Act of Parliament passed in the same session (6th and 7th Victoria, chapter 94),† and intituled "An Act to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual," the short title of which is (in accordance with 29th and 30th Victoria, chapter 87‡) "The Foreign Jurisdiction Act, 1843," it was enacted (among other things) that it was and should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory:

And whereas Her Majesty has had and now has power and jurisdiction in the dominions of the Emperor of China and in the dominions of the Mikado of Japan:

And whereas, by "The Merchant Shipping Act, 1873," 36th and 37th Victoria, chapter 85 (which is to be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and which with the said Acts may be cited collectively as the Merchant Shipping Acts, 1854 to 1873), it was enacted, among other things, that where, in accordance with the Foreign Jurisdiction Acts, Her Majesty should exercise jurisdiction within any port out of Her Majesty's dominions, it should be lawful for Her Majesty by Order in Council to declare such port a port of registry (in the Act now in recital referred to as a foreign port of

* H. T. Vol. 6. Page 251. † H. T. Vol. 6. Page 500.
‡ H. T. Vol. 12. Page 1090.

registry), and by the same or any subsequent Order in Council to declare the description of persons who should be the registrars of British ships at such foreign port of registry, and to make regulations with respect to the registry of British ships thereat; and that upon such Order coming into operation it should have effect as if it were enacted in the Merchant Shipping Acts, 1854 to 1873, and should, subject to any exceptions and regulations contained in the Order, apply in the same manner, as nearly as might be, as if the port mentioned in the Order were an ordinary port of registry:

And whereas it has been made to appear to Her Majesty that it is expedient to declare the port of Shanghai, in the empire of China, a foreign port of registry, and to declare the description of persons who shall be the registrars of British ships thereat, and to make regulations with respect to the registry of British ships thereat:

Now, therefore, Her Majesty, by virtue of the powers vested in her in this behalf by the hereinbefore recited Acts, or some or one of them, and by and with the advice of Her Privy Council, is pleased to declare and order as follows:—

Short Title.

1. This Order may be cited as the China and Japan Maritime Order in Council, 1874.

Interpretation.

2.* In this Order—

The term "China" shall mean the dominions of the Emperor of China:

The term "Japan" shall mean the dominions of the Mikado of Japan:

The term "Minister" shall mean the chief diplomatic representative or superintendent of trade of Her Majesty for the time being, whether Ambassador, Envoy, Minister Plenipotentiary, or Chargé d'Affaires:

The term "Consular Officer" shall include Consul-General, Consul, and Vice-Consul, and any person for the time being discharging the duties of Consul-General, Consul, or Vice-Consul:

The term "The Merchant Shipping Acts" shall mean the Merchant Shipping Acts, 1854 to 1873, and any Acts amending the same:

The term "Month" shall mean calendar month:

Words importing the plural or singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

* Incorporated with Order in Council of 22nd May, 1883. Page 631.

Application of Order.

3.* The provisions of this Order relating to British subjects apply to all subjects of Her Majesty, whether by birth or naturalization.

Shanghai a Port of Registry.

4. The port of Shanghai in the empire of China shall be a port of registry.

5.† *Registrar—Appointment.*

Deputy of Registrar.

6. Her Majesty's Minister in China may from time to time, in case of the absence or intended absence from Shanghai, or in case of the illness of the Registrar, appoint by writing under his hand a fit person to be the Deputy of the Registrar for the time therein mentioned; but every such appointment shall be revocable at pleasure by Her Majesty's said Minister by writing under his hand.

The person so appointed shall during the continuance of his appointment have all the power and authority of the Registrar.

7,† 8.† *Tenure of Office of Registrar.*

Seal of Registrar.

9. The Registrar shall have and use a seal bearing such style and device as one of Her Majesty's Principal Secretaries of State shall from time to time direct.

Presumption as to Signature and Seal.

10. Every signature or seal affixed to any instrument purporting to be the signature or the seal, as the case may be, of the Registrar, shall for all purposes under this Order, without any proof thereof, be presumed to be genuine, and shall be taken as genuine until the contrary is proved.

Powers of Registrar.

11. The Registrar of Shipping at Shanghai shall have the same powers as any Registrar of Shipping appointed under the Merchant Shipping Acts; and for the purpose of enforcing the provisions of the said Acts and of this Order the said Registrar shall have the same powers as by the said Acts are conferred for the purposes of registration and measurement on any officer of Customs or on any officer of the Board of Trade.

* Incorporated with Order in Council of 22nd May, 1883. Page 631.
† Repealed by Order in Council of 22nd May, 1883. Page 631.

Certificates of Mortgage or Sale.

12. A certificate of mortgage or sale, granted in pursuance of the Merchant Shipping Act, 1854, by the Registrar at Shanghai, may contain powers to be exercised at any place situate out of the port of Shanghai, within the limits of the empire of China.

Mode of Transfer of Ship under Certificate of Sale from one British Subject to another at Consular Port.

13. On the transfer of a ship from one British subject to another under a certificate of sale, at any port in Japan or at any port in China other than Shanghai, the Consular officer of such port shall endorse an entry of the transfer on the certificates of registry and sale of the said ship, and should the purchaser be desirous of registering the said ship at Shanghai, the said Consular Officer shall, if requested so to do by the purchaser or transferee or other duly authorised person, forward to the Registrar at Shanghai the bill of sale and the declaration of ownership, together with the aforesaid certificates and a certificate of any survey of the said ship that may be required for the purposes of registry anew under the Merchant Shipping Acts; and upon receiving the same the said Registrar shall register the said ship anew, and shall either retain the new certificate of registry, or forward the same to the Consular Officer or to the Registrar of Shipping at such port or place as such purchaser or transferee or authorised person shall require; and on such request the said certificate shall be forwarded by any Consular Officer or Registrar, into whose hands the same may come, to any other Consular Officer or Registrar, to be handed by him to the master of the said ship when the requirements of the Merchant Shipping Acts as to marking the said ship shall have been complied with.

Mode of Transfer of Ship from Foreigner to British Subject at Consular Port.

14. On the transfer of a foreign ship to a British subject at any port in Japan or at any port in China other than Shanghai, should the purchaser be desirous of registering the said ship at Shanghai, the said Consular Officer of such port shall, if requested so to do by the purchaser or transferee or other duly authorised person, forward to the Registrar at Shanghai the bill of sale, the declaration of ownership, and a certificate of any survey of the said ship that may be required for the purposes of registry under the Merchant Shipping Acts; and upon receiving the same the said Registrar shall grant a certificate of registry for the said ship, and shall either retain the said certificate, or forward the same to the Consular Officer, or to the Registrar of Shipping at such port or place as such purchaser or transferee or other authorised person shall require: and on such request the said certificate shall be

forwarded by any Consular Officer or Registrar, into whose hands the same may come, to any other Consular Officer or Registrar, to be handed by him to the master of the said ship when the requirements of the Merchant Shipping Acts as to marking the said ship shall have been complied with.

Mode of Registry of Ship provided with Sailing Letter at Consular Port.

15. Lorchas and other Chinese and Japanese rigged ships, or other ships provided with Sailing Letters or documents of the nature of Sailing Letters granted by Her Majesty's Ministers in China or Japan, shall, after the commencement of this Order, on their first arrival at any port in Japan or at any port in China other than Shanghai where there is a surveyor, be surveyed, and the Consular Officer of such port shall transmit to the Registrar at Shanghai the said Sailing Letter, and a certificate of any survey of the said ship, that may be required for the purposes of registry under the Merchant Shipping Acts; and upon receiving the same the said Registrar shall grant a certificate of registry for the said ship, and shall either retain the said certificate, or forward the same to the Consular Officer or to the Registrar of Shipping at such port or place as the owner or other duly authorised person shall require; and on such request the said certificate shall be forwarded by any Consular Officer or Registrar, into whose hands the same may come, to any other Consular Officer or Registrar, to be handed by him to the master of the said ship when the requirements of the Merchant Shipping Acts as to marking the said ship shall have been complied with.

Passes, how granted, and in what cases void.

16. On any such transfers, whether from one British subject to another, or from a foreigner to a British subject, or on the first arrival of any ship provided with a Sailing Letter or other document as aforesaid, at any port in Japan, or at any port in China other than Shanghai, where there is a surveyor, the Consular Officer of such port shall grant to the master of such ship, upon his application a Pass containing the particulars required by Schedule A to this, Order. The Pass so granted shall within the China and Japan seas, including the waters of the island of Hong Kong, possess the same force as a certificate of registry until the expiration of four months, or until such earlier time as the new certificate of registry shall be delivered to the master of the said ship by a Consular or other duly authorised officer, or until notice of the cancellation of such pass has been given to the master of the said ship by the Registrar at Shanghai, but upon the expiration of such period, or upon such delivery, or upon receipt of such notice of cancellation, shall be void to all intents and purposes; and the said Pass, on becoming so void, shall be at once delivered by the master of the said ship to a Consular or other duly authorised officer, and in

default of delivery the said master shall incur a penalty not exceeding £50.

Powers of Minister in China respecting Ship Registered at Shanghai.

17. Her Majesty's Minister in China shall, with regard to the performance of any act or thing relating to the registry of a ship registered at Shanghai, or of any interest therein, be considered in all respects as occupying the place of the Board of Trade and the Commissioners of Customs.

Powers of Ministers in China and Japan respecting Surveyors.—Powers of Surveyors.

18. Her Majesty's Minister in China shall at any port or place in China, and Her Majesty's Minister in Japan shall at any port or place in Japan, have the same power to appoint fit and proper persons to be surveyors under the Merchant Shipping Acts as are possessed by the Board of Trade in the United Kingdom, and the persons so appointed shall have the same powers as are conferred on the Surveyors appointed as aforesaid by the Board of Trade.

Commissioners of Customs or Governor may grant Pass to a Ship unregistered to proceed to Shanghai.

19. In cases where it appears to the Commissioners of Customs, or to the Governor or other person administering the government of any British Possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass without being previously registered from any port or place in Her Majesty's dominions to the port of Shanghai, in the empire of China, it shall be lawful for such Commissioners or Governor or other person to grant a Pass accordingly, and such Pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Her Majesty's Minister in China may grant Pass to a Ship unregistered to proceed to any Port in Her Majesty's Dominions.

20. In cases where it appears to Her Majesty's Minister in China that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass without being previously registered from the port of Shanghai, in the empire of China, to any port or place within Her Majesty's dominions, it shall be lawful for such Minister to grant a Pass accordingly, and such Pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

What class of Ship exempted from shipment and discharge of Native Crew.

21. Lorchas and other Chinese and Japanese rigged ships regis-

tered at Shanghai shall be exempted from that portion of the Merchant Shipping Acts which relates to the shipment and discharge of seamen, so far as applies to the employment of natives of China and Japan on board these ships.

Minister in China may amend present Instructions or issue others.

22. Her Majesty's Minister in China may, with the approval of one of Her Majesty's Secretaries of State, amend the Instructions to Consuls which accompany this Order, and issue any further instructions with reference to the performance of any act or thing relating to the registry of a ship registered at Shanghai, or of any interest therein, that may seem to him necessary or advisable.

Fees.

23. Fees not exceeding the amounts named in Schedule B to this Order may be taken in respect of the matters mentioned in the same Schedule.

Commencement of Order.

24. This Order shall commence and have effect as follows:—

1. As to the making of any warrant or appointment under this Order, immediately from and after the making of this Order:

2. As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul at Shanghai; for which purpose Her Majesty's Consul at Shanghai is hereby required forthwith, on receipt by him of a copy of this Order, to affix and exhibit the same conspicuously in his public office, and he is also hereby required to keep the same so affixed and exhibited during one month from the first exhibition thereof; and of the time of such first exhibition notice shall, as soon thereafter as practicable, be published in every Consular district in China and Japan, in such manner as Her Majesty's Ministers there respectively direct; and, notwithstanding anything in this Order, the time of the expiration of the said month shall be deemed to be the time of the commencement of this Order.

Publication of Order.

25.* A copy of this Order shall be kept exhibited conspicuously in each Consulate in China and in Japan.

Printed copies shall be provided and sold at such reasonable price as Her Majesty's Minister in China directs.

And the Right Honourable the Earl of Derby, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

ARTHUR HELPS.

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* Incorporated with Order in Council of 22nd May, 1883. Page 631.

SCHEDULE A.

The China and Japan Maritime Order in Council, 1874.

SAILING SHIP.

PASS GRANTED ONLY FOR SHIPS TO BE REGISTERED AT SHANGHAI.

Name of Ship.	British or Foreign built.	How propelled.

Number of decks		Build	
Number of masts		Galleries	
Rigged		Head	
Stern		Framework	

MEASUREMENTS.	Feet.	Tenths.
Length from the fore part of stem under the bowsprit to the aft side of the head of the sternpost		
Main breadth to outside plank		
Depth in hold from tonnage deck to ceiling at midships .		

TONNAGE.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, viz.: –	
Space or spaces between decks	
Poop	
Round-house	
Other inclosed spaces, if any, naming them	
Total tonnage	

I, the undersigned , Her Britannic Majesty's Consul at the port of , hereby certify that, –

1. The ship, the description of which is prefixed to this my Pass, has been duly surveyed, and that the above description is true.
2. That of , is the master of the said ship.
3. That the said ship was built at , on the day of 18 , and her foreign name is*

Dated at , the day of , one thousand eight hundred and .

Her Britannic Majesty's Consul.

* These words to be added if the ship is foreign.

NOTE.—This Pass continues in force only until the day of , 18 , or until she completes her voyage from to Shanghai, or until such earlier time as the new certificate of registry shall be delivered to the master of the said ship by a Consular or other duly authorised officer, or until notice of the cancellation of such Pass has been given to the master of the said ship by the Registrar at Shanghai; but upon the expiry of such period, or upon such delivery, or upon receipt of such notice of cancellation, shall be void to all intents.

NOTE Registrars of shipping are informed that this ship is in process of registration at Shanghai, and that registry must not be granted elsewhere

The China and Japan Maritime Order in Council, 1874.

STEAMER.

PASS GRANTED ONLY FOR SHIPS TO BE REGISTERED AT SHANGHAI.

Name of Ship.	British or Foreign built, and when built.	How propelled.

Number of decks		Build	
Number of masts		Galleries	
Rigged..		Head	
Stern		Framework	

MEASUREMENTS.	Feet.	Tenths.
Length from the fore part of stem under the bowsprit to the aft side of the head of the sternpost		
Main breadth to outside plank		
Depth in hold from tonnage deck to ceiling at midships ..		

TONNAGE.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, viz.:—	
Space or spaces between decks	
Poop	
Round-house	
Other inclosed spaces, if any, naming them..	
Gross tonnage	
Reduction for space required for propelling power..	

	Feet.	Tenths.	Tonnage.
Length of engine-room			
Number of engines			
Combined power (estimated horse-power)			
Number of horses-power ..			
Name and address of engine maker			

I, the undersigned , Her Britannic Majesty's Consul at the port of , hereby certify that,—

1. The ship, the description of which is prefixed to this my Pass, has been duly surveyed, and that the above description is true.
2. That , of , is the master of the said ship.
3. That the said ship was built at , on the day of , 18 , and her foreign name is* .

Dated at , the day of , one thousand eight hundred and .

Her Britannic Majesty's Consul.

* These words to be added if the ship is foreign.

NOTE.—This Pass continues in force only until the day of , 18 , or until she completes her voyage from to Shanghai, or until such earlier time as the new certificate of registry shall be delivered to the master of the said

ship by a Consular or other duly authorised officer, or until notice of the cancellation of such pass has been given to the master of the said ship by the Registrar at Shanghai; but upon the expiration of such period, or upon such delivery, or upon receipt of such notice of cancellation, shall be void to all intents.

NOTE. Registrars of shipping are informed that this ship is in process of registration at Shanghai, and that registry must not be granted elsewhere.

SCHEDULE B.

TABLE OF FEES, *to be taken in pursuance of the China and Japan Maritime Order in Council*, 1874.

	$	c.
Certificate of registry	15	00
Inspection of register book	1	00
Copy of register book	5	00
For every declaration taken or recorded under Merchant Shipping Acts	2	00
Certificate of sale or mortgage	2	00
Recording bill of sale	5	00
Recording deed of mortgage	5	00
Transfer or discharge of mortgage	5	00
Indorsing ownership on certificate of registry	2	00
Transfer of registry to another port	2	00
Provisional certificate of registry	5	00
Pass for ship	5	00
Change of master	1	00
Alteration in register of name, rig, or tonnage	2	00
For annexing the seal of office and signature to any document not mentioned in or otherwise provided for by this table	1	00
For measurement of tonnage as under		
For ships of 15 tons, and under 500 tons gross tonnage	15	00
„ 500 „ 1,000 „	22	50
„ 1,000 „ 2,000 „	27	00
„ 2,000 „ 3,000 „	31	50
„ 3,000 „ 4,000 „	36	00
„ 4,000 „ 5,000 „	40	50
„ 5,000 „ and upwards „	45	00
For the inspection of the berthing or sleeping accommodation of the crew:—		
For each visit to the ship	4	50

Provided as follows:—

(*a*) The aggregate amount of the fees for any such inspection shall not exceed $9, whatever be the number of separate visits.

(*b*) When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for the inspection.

For the inspection of light and fog signals:—

For each visit made to the ship on the application of the owner, and for each visit made where the lights or fittings are found defective	4	50

Provided that the aggregate amount of fees for any such inspection shall not exceed $9, whatever be the number of separate visits

For the inspection of the marking of a ship:—

For each visit made to the ship on the application of the owner, and for each visit made where the provisions of the Merchant Shipping Acts with respect thereto have not been complied with	2	50

Provided as follows:—

(*a*) The aggregate amount of the fees for any such inspection shall not exceed $5, whatever be the number of separate visits.

(*b*) When the marking of a ship is inspected at the same time with the inspection of light and fog signals, no separate fee shall be charged for the inspection

(No. 78.) *ACT of the British Parliament, for amending the Foreign Jurisdiction Acts.* [*Deportation.*]

[38 & 39 Vict., cap. 85.] —— [13th August, 1875.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Where, by Order of the Queen in Council in pursuance of the Foreign Jurisdiction Acts, any Court, Judge, Magistrate, or officer acting or exercising jurisdiction within or in relation to any country or place out of Her Majesty's dominions, is authorised to order the removal or deportation of any person from that country or place, such removal or deportation, and any detention for the purposes thereof, according to the provisions of the Order in Council, shall be as lawful as if the order of the Court, Judge, Magistrate, or officer were to have effect wholly within that country or place.

2. This Act shall be construed as one with the Foreign Jurisdiction Act, 1843,* and the Acts amending the same, and together with those Acts may be cited as the Foreign Jurisdiction Acts, 1843 to 1875, and may be cited separately as the Foreign Jurisdiction Act, 1875.

* H. T. Vol. 6. Page 500.

(No. 79.) *ORDER IN COUNCIL to provide for the exercise by Her Majesty of Power and Jurisdiction in any additional Ports of China and Japan, which may be opened to Foreign Trade before the establishment of Commissioned Consular Officers at such Ports.**

At the Court at Windsor, the 30th day of April, 1877.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the China and Japan Order in Council, 1865,† Her Majesty the Queen was pleased, by and with the advice of Her Privy Council, to make provision for the exercise of Her Majesty's power and jurisdiction over Her Majesty's subjects resident in or resorting to China or Japan:

And whereas in China and Japan additional ports may be from time to time opened to foreign trade, and it is expedient to provide for the exercise at those ports of Her Majesty's power and jurisdiction before the establishment there of Commissioned Consular Officers:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1875, and by the Act of the Session of the 6th and 7th years of Her Majesty's reign, chapter 80, "for the better government of Her Majesty's subjects resorting to China," or otherwise in her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. The provisions of Article XXV of the China and Japan Order in Council, 1865, and all provisions of that Order consequent thereon or relative thereto, shall extend and apply to every person (not holding a Consular Commission from Her Majesty) from time to time appointed by Her Majesty's Minister in China or Japan to be Acting-Consul, and to be resident at a port in China or Japan, which is for the time being open to foreign trade, and at which no Commissioned Consular Officer of Her Majesty is resident.

2. For the purposes and within the meaning of the said Order, every person so appointed as an Acting-Consul shall be deemed a Consular Officer, and the district for which he is appointed to act shall be deemed a Consular District, and the Court held by him shall be deemed a Provincial Court.

3. Words in this Order have the same meaning as in the said Order.

C. L. PEEL.

* The Ports of Wu-hu, Wên-chow, Pak-hoi, and I-chang were opened to foreign trade on the 1st April, 1877, in accordance with the Convention of 13th September, 1876, § 3 (No. 12), p. 72.

† Page 87.

(No. 80.) *ORDER IN COUNCIL, extending the Jurisdiction of the Supreme Court of Hong Kong in respect of matters arising in the neighbourhood of the Colony of Hong Kong.—Balmoral, 23rd October,* 1877.*

At the Court at Balmoral, the 23rd day of October, 1877.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by an Act of Parliament passed in the 7th year of Her Majesty's reign [cap. 80],† intituled "An Act for the better Government of Her Majesty's subjects resorting to China," it is (amongst other things) enacted that it shall be lawful for Her Majesty, by any Order or Orders made with the advice of Her Majesty's Privy Council, to ordain, for the government of Her Majesty's subjects being within the dominions of the Emperor of China, or being within any ship or vessel at a distance of not more than 100 miles from the coast of China, any law or ordinance which to Her Majesty may seem meet, as fully and effectually as any such law or ordinance could be made by Her Majesty in Council for the government of Her Majesty's subjects being within the Island of Hong Kong.

And whereas Her Majesty was pleased by and with the advice of Her Privy Council, by Order in Council of the 9th day of March, 1865,‡ to ordain (amongst other things) that all Her Majesty's jurisdiction exercisable in China or in Japan for the judicial hearing and determination of such matters as are by the 4th section of the said Order specified, should be exercised according to the provisions of the said Order, and not otherwise, and that, save as expressly provided by the said Order, all jurisdiction, power, and authority of the Supreme Court of Hong Kong exercisable in relation to British subjects resident in or resorting to China or Japan, should absolutely cease.

And whereas by the Foreign Jurisdiction Amendment Act, 1866,§ it was enacted that it should be lawful for Her Majesty in Council, by Order in Council under the Foreign Jurisdiction Acts, to confer upon any Court in Her Majesty's possessions out of the United Kingdom any jurisdiction which Her Majesty in Council might lawfully by any such Order confer on any Court in any country or place out of Her Majesty's dominions within which Her Majesty has power or jurisdiction.

And whereas Her Majesty was pleased by and with the advice of Her Privy Council, by another Order in Council of the 28th

* "London Gazette," 26th October, 1877.
† H. T. Vol. 6. Page 251.
‡ Page 424.
§ 29 & 30 Vict., c. 87. H. T. Vol. 12. Page 1099.

day of March, 1868,* to ordain (amongst other things) that in addition to the powers then vested in the Supreme Court of Hong Kong, the said Supreme Court might have jurisdiction over and take cognizance of all crimes and offences committed by British subjects at any place on land being within six miles of any part of the Colony of Hong Kong, and not being on the mainland of China, and of and over all disputes and differences between British subjects being in any such place within such limit as aforesaid.

And whereas it has seemed to Her Majesty, by and with the advice of Her Privy Council, to be expedient to revoke the said last-mentioned Order in Council, and to extend the jurisdiction of the Supreme Court of Hong Kong in respect to matters arising in the neighbourhood of the Colony of Hong Kong.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the said recited Act, or otherwise vested in Her, is pleased by and with the advice of Her Privy Council, to order and it is hereby ordered as follows:—

1. In addition to the powers now vested in the said Supreme Court of Hong Kong, the said Supreme Court may have jurisdiction over and take cognizance of all crimes and offences committed by British subjects at any place on land, being within 10 miles of any part of the Colony of Hong Kong and of and over all disputes and differences between British subjects being in any such place within such limit as aforesaid, and the said Court shall and may deal with, try, hear and determine all such cases as fully and effectually as if such crimes or offences had been committed or such disputes or differences had arisen by or between British subjects within the said Colony of Hong Kong.
2. The said Order in Council of the 28th day of March, 1868, is hereby revoked, except for the purpose of completing any proceedings criminal or civil which may have been commenced thereunder before this Order is published in the said Colony of Hong Kong, and any proceedings so commenced may be completed, and any sentences and judgments given therein may be executed as fully and effectually as if this Order had not been made.
3. The jurisdiction hereby conferred upon the Supreme Court of Hong Kong shall be in addition to and concurrent with any power or jurisdiction now possessed by the Supreme Court for China or Japan, or any Provincial Court under the said Order in Council of the 9th of March, 1865, to deal with, try, hear, and determine such cases as are herein mentioned, and nothing in this Order contained shall affect the power of the said Supreme Court for China or Japan or of any Provincial Court under the said last-mentioned

* H. T. Vol. 12. Page 1119.

Order in Council to deal with, hear, try and determine the said cases.

And the Right Honourable the Earl of Carnarvon, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C L. PEEL.

(No. 81.) *ORDER IN COUNCIL for the establishment of a Supreme Court for China and Japan for the appointment of Judges in China and Japan, and for defining Vice-Admiralty Jurisdiction. Osborne, 14th August,* 1878.*

At the Court at Osborne House, Isle of Wight, the 14th day of August, 1878.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS Her Majesty the Queen has power and jurisdiction over Her Majesty's subjects resident in or resorting to China and Japan:

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1875, and by the Act of Parliament of the Session of the 6th and 7th years of Her Majesty's reign (chapter 80†), "for the better government of Her Majesty's subjects resorting to China," or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Preliminary.

1. This Order may be cited as "The China and Japan Order in Council, 1878."

2. This Order shall commence and have effect as follows:

(*a.*) As to the making of any warrant or appointment under this Order, immediately from and after the making of this Order.

(*b.*) As to all other matters and provisions comprised and contained in this Order, immediately from and after the expiration of one month after this Order is first exhibited in the public office of Her Majesty's Consul-General for the district of the Consulate of Shanghai; for which purpose Her Majesty's Consul-General or other principal Consular Officer for the time being for that district is hereby required forthwith, on receipt by him from Her Majesty's Minister in China of a copy of this Order, with instructions in this behalf, to affix and exhibit this Order conspicuously in that public office, and to keep the same so affixed and exhibited during one month thereafter; of the time of which first exhibition notice shall be published as soon thereafter as practicable in each Consular district in China and in Japan, in such manner as Her Majesty's Ministers there respectively direct; and the time of the

* "London Gazette," 23rd August, 1878. For the "Consular Courts (Admiralty) Order in Council, 1894." See H. T. Vol. 9. Page 466.

† H. T. Vol. 6. Page 251.

expiration of that month shall be deemed the time of the commencement of this Order.

3.—(1.) Articles 9 to 22, both inclusive, of the China and Japan Order in Council, 1865,* are hereby revoked.

(2.) Articles 36 and 37 of that Order† are hereby revoked as regards Japan only.

(3.) In this Order "The Secretary of State" means one of Her Majesty's Principal Secretaries of State.

(4.) Subject to the foregoing provisions, this Order shall be read as one with the China and Japan Order in Council, 1865.

(5.) A copy of this Order shall be kept exhibited conspicuously in each Court and Consulate in China and in Japan.

(6.) Printed copies thereof shall be provided, and shall be sold at such reasonable price as Her Majesty's Ministers there respectively direct.

Supreme Court for China and Japan.

4.—(1.) There shall be a Chief Justice and an Assistant Judge of the Supreme Court for China and Japan.

(2.) The Assistant Judge shall be the Registrar of the Supreme Court; and the office of Law Secretary of the Supreme Court is hereby abolished.

(3.) The Assistant Judge shall hear and determine such causes and matters, civil and criminal, and transact such other part of the business of the Supreme Court, as the Chief Justice from time to time by general order, or otherwise, directs; and for that purpose the Assistant Judge shall have all the like jurisdiction, power, and authority as the Chief Justice.

(4.) Any party to a suit or proceeding wherein any matter or question is heard and determined by the Assistant Judge shall be entitled, as of course, to a rehearing before the Chief Justice, sitting with the Assistant Judge, or, in the unavoidable absence of the Assistant Judge, alone.

(5.) If, on any such rehearing, there is a difference of opinion between the Chief Justice and the Assistant Judge, the opinion of the Chief Justice shall prevail.

(6.) Throughout the China and Japan Order in Council, 1865, and the rules made thereunder, the Chief Justice of the Supreme Court shall, as regards China, be deemed to be therein substituted for the Judge of the Supreme Court.

(7.) There shall be attached to the Supreme Court a Chief Clerk, and so many officers and clerks as the Secretary of State from time to time thinks fit.

Court for Japan.

5.—(1.) There shall be in and for Japan a Court styled Her Britannic Majesty's Court for Japan.

* Page 431. † Page 434.

(2.) The Court for Japan shall have a seal, bearing its style and such device as the Secretary of State from time to time directs.

(3.) The Court for Japan shall hold its ordinary sittings at Kanagawa, or, on emergency, at any other place within the district of the Consulate of Kanagawa, but may at any time transfer its ordinary sittings to any place in Japan approved by the Secretary of State or by Her Majesty's Minister in Japan.

(4.) There shall be a Judge and an Assistant Judge of the Court for Japan.

(5.) The Assistant Judge shall hear and determine such causes and matters, civil and criminal, and transact such other part of the business of the Court, as the Judge from time to time by general order, or otherwise, directs; and for that purpose the Assistant Judge shall have all the like jurisdiction, power, and authority as the Judge.

(6.) Any party to a suit or proceeding wherein any matter or question is heard and determined by the Assistant Judge shall be entitled, as of course, to a rehearing before the Judge, sitting with the Assistant Judge, or, in the unavoidable absence of the Assistant Judge, alone.

(7.) If, on any such rehearing, there is a difference of opinion between the Judge and the Assistant-Judge, the opinion of the Judge shall prevail.

(8.) In Japan, persons accused of crimes which in England are capital shall be tried by the Judge of the Court for Japan, with a jury, and not otherwise.

(9.) There shall be attached to the Court for Japan a Chief Clerk, and so many officers and clerks as the Secretary of State from time to time thinks fit.

Jurisdiction in Japan.

6.—(1.) Her Majesty's Consul for the district of the Consulate of Kanagawa shall cease to hold and form a Provincial Court.

(2.) Unless and until the Secretary of State otherwise directs, Her Majesty's Consul for the time being for the district of the Consulate of Kanagawa shall be the Assistant Judge of the Court for Japan.

(3.) All Her Majesty's jurisdiction, civil and criminal, exerciseable in Japan shall, for and within the district of the Consulate of Kanagawa, be vested in the Court for Japan as its ordinary original jurisdiction.

(4.) All Her Majesty's jurisdiction, civil and criminal, exerciseable in Japan beyond the district of the Consulate of Kanagawa, and not under this Order vested in the Court for Japan, shall, to the extent and in the manner provided by the China and Japan Order in Council, 1865, as modified by this Order, be vested in the Provincial Courts in Japan, each for and within its own district.

(5.) The Court for Japan shall have, in all matters, civil and criminal, an extraordinary original jurisdiction throughout Japan, concurrent with the jurisdiction of the several Provincial Courts in Japan, the same to be exercised subject and according to the provisions of the China and Japan Order in Council, 1865, as modified by this Order.

7.—(1.) Subject to the provisions of this Order, the provisions of the China and Japan Order in Council, 1865,* and the Rules in force in the Supreme Court and other Courts in China and Japan made under that Order, shall extend and apply to the Court for Japan, as if the same were a Court (not a Provincial Court) established under that Order.

(2.) For the purpose of the application thereof to the Court of Japan, in Articles 23, 24, 38, 39, 41, 42, 43, 47, 54 to 57, 59, 61, 62, 67, 68, 69, 72, 74, 77 to 80, 83, 93, 99, 102, 105, 108 to 111, 117, 119, 120 to 126, 144, 153, 155, all inclusive of that Order, and throughout those Rules, there shall, as regards Japan, be deemed to be substituted Japan for China or for China and Japan, Kanagawa for Shanghai, the Court for Japan for the Supreme Court for China and Japan, and the Judge and Assistant Judge of the Court for Japan for the Judge and Assistant Judge of the Supreme Court; but not so as to affect those Articles or Rules as regards operation thereof in and for China.

8.—(1.) Article 119 of the China and Japan Order in Council, 1865, relative to appeals in civil cases to the Supreme Court for China and Japan, shall extend and apply to appeals from decisions of the Court for Japan, as if the same were a Provincial Court within that Article: and that Article, and the Rules therein referred to, shall accordingly, notwithstanding anything in this Order, apply to appeals from the Court for Japan to the Supreme Court for China and Japan; but the last-mentioned appeals shall not be heard except by the Chief Justice of the Supreme Court, sitting with the Assistant Judge of that Court, or, in the unavoidable absence of the Assistant Judge, alone.

(2.) If, on any such appeal, there is a difference of opinion between the Chief Justice and the Assistant Judge, the opinion of the Chief Justice shall prevail.

(3.) Articles 120 to 126, both inclusive, of the China and Japan Order in Council, 1865, relative to appeals to the Supreme Court for China and Japan in criminal cases, shall extend and apply to appeals to that Court in criminal cases from decisions of the Court for Japan, both in cases originally tried in the Court for Japan and in cases brought by virtue of this Order before that Court, under those Articles, by way of appeal from any Court or Officer in Japan; and for the purposes of this Article, the Court for Japan shall, in cases so brought before it by way of appeal, be deemed to be the Court trying the case.

* Page 425

Judges in China and Japan.

9.—(1.) The Chief Justice and Assistant Judge of the Supreme Court and the Judge and Assistant Judge of the Court for Japan shall each be appointed by Her Majesty by warrant under Her Royal Sign Manual, subject and according to Article 23 of the China and Japan Order in Council, 1865.

(2.) The Chief Justice and the Judge shall each be a subject of Her Majesty by birth or naturalisation, who, at the time of his appointment, is a member of the Bar of England, Scotland, or Ireland, of not less than seven years' standing.

10.— 1.) In case of the death or illness, or the absence or intended absence from the district of the Consulate of Shanghai, of the Chief Justice or of the Assistant Judge of the Supreme Court, Her Majesty's Minister in China may appoint a fit person to be the Acting Chief Justice or to be the Acting Assistant Judge (as the case may require); but, unless in any case the Secretary of State otherwise directs, the Assistant Judge, if present and able to act, shall always be appointed to be Acting Chief Justice.

(2.) In case of the death or illness, or the absence or intended absence from the district of the Consulate of Kanagawa, of the Judge or of the Assistant Judge of the Court for Japan, Her Majesty's Minister in Japan may appoint a fit person to be the Acting Judge or to be the Acting Assistant Judge (as the case may require).

Vice-Admiralty Jurisdiction.

11. Any proceeding taken in China or Japan against one of Her Majesty's vessels, or the officer commanding the same, as such, in respect of any claim cognisable in a Court of Vice-Admiralty, shall be taken only in the Supreme Court or in the Court for Japan, under the Vice-Admiralty jurisdiction thereof respectively.

Pending Proceedings.

12. Nothing in this Order shall affect any suit or proceedings, civil or criminal, pending at the commencement of this Order, with reference either to the original proceedings therein, or to any appeal therein, or otherwise; save that all suits and proceedings, civil or criminal, instituted or taken in the district of the Consulate of Kanagawa before and pending at the commencement of this Order are hereby transferred to the jurisdiction of the Court for Japan; and the same may be carried on and shall be tried, heard, and determined in and by the Court for Japan, as nearly as may be, as if the same had been instituted or taken in the district of the Consulate of Kanagawa after the commencement of this Order.

And the Most Honourable the Marquis of Salisbury, and the Right Honourable Sir Michael Edward Hicks-Beach, Baronet, two of Her Majesty's Principal Secretaries of State, and the Lords

Commissioners of the Treasury, and the Lords Commissioners of the Admiralty, are to give the necessary directions herein as to them may respectively appertain.

C. L. PEEL.

[On the 7th August, 1894, an Order in Council was issued, in which it was provided as follows:—

"It is hereby ordered, as follows:—

"1. The following enactments of 'The Colonial Courts of Admiralty Act, 1890,' that is to say, section 2, sub-sections (2) to (4), section 5, section 6, and section 16, sub-section (3), shall apply to every Court which has been established by Her Majesty under any Order in Council relating respectively to the countries and places named in the schedule to this Order, [China, &c.], and to which Vice-Admiralty jurisdiction has been assigned by Order in Council, as if such Court were in the said sections mentioned in lieu of a Colonial Court of Admiralty, and as if such countries and places respectively were referred to in the said sections in lieu of a British possession.

"2. For the purposes of this Order the expressions 'judgment' and 'appeal' shall, in the enactments of the recited Act hereby applied, have the same respective meanings as are assigned thereto in section 15 of that Act.

"3. This Order may be cited as 'The Consular Courts (Admiralty) Order in Council, 1894'"].

[For correspondence between the Foreign Representatives at Peking and the Chinese Government respecting the mixed Court at Shanghae, 1879–1880. See "State Papers," Vol. 72. Page 1015.]

(No. 82.) *ACT of Parliament for Extending and Amending the Foreign Jurisdiction Acts; so far as relates to Jurisdiction over Ships in Eastern Seas.* *16th August*, 1878.

[41 and 42 Vict.] [Chapter 67]

6. It shall be lawful for Her Majesty the Queen in Council, from time to time, by Order, to make, for the government of Her Majesty's subjects being in any vessel at a distance of not more than 100 miles from the coast of China or of Japan, any law that to Her Majesty in Council may seem meet, as fully and effectually as any such law might be made by Her Majesty in Council for the government of Her Majesty's subjects being in China or in Japan.

(No. 83.) *RULES of Her Britannic Majesty's Supreme and other Courts in China. (Criminal Cases.) 7th November*, 1878.*

FRAMED under the China and Japan Order in Council, 1865, by the Chief Justice of Her Majesty's Supreme Court for China and Japan, and approved by one of Her Majesty's Principal Secretaries of State.

Dated the 7th day of November, 1878.

1. In criminal cases to be tried in China on indictment before the Chief Justice or Assistant Judge of the Supreme Court, whether with or without a jury, the depositions when completed shall forthwith be delivered to the Crown Advocate as prosecutor on behalf of the Crown.

2. The Crown Advocate will thereupon, in person or by his representative, take the proper steps for indicting and bringing to trial the accused, and conduct the prosecution in Court at the trial.

3. No such prosecution shall be under the direction or conduct of any private prosecutor.

4. Any private prosecutor may, however, retain any member of the English, Irish, or Scottish Bar, or any regular foreign advocate, to assist in the prosecution.

5. Such barrister or advocate may, with the consent of the Crown Advocate, appear in Court at the trial and take part in the prosecution; but no such prosecution shall be withdrawn or abandoned without the express consent of the Crown Advocate, or of his representative, given in open Court.

Approved.

SALISBURY.

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* For Table of Judicial Fees to be taken in Civil and Criminal Proceedings, see Rule 1st October, 1883 (No. 88), page 631.

(No. 84.) *RULES of Her Britannic Majesty's Supreme and other Courts in China, framed under "The China and Japan Order in Council,* 1865," *by the Chief Justice of Her Britannic Majesty's Supreme Court for China and Japan, and approved by one of Her Majesty's Principal Secretaries of State.* 28*th March,* 1881.

PRACTITIONERS IN PROVINCIAL COURTS.

Practitioners in Supreme Court entitled to practise in Provincial Courts.

1. Every person whose name is now on the roll of practitioners of the Supreme Court, or who shall hereafter be admitted to practise in that Court, shall be entitled to practise in Her Britannic Majesty's Provincial Courts in China.

Persons not Practitioners in Supreme Court may be admitted by Chief Justice to practise in Provincial Courts.

2. If any person not now or not hereafter admitted to practise in the Supreme Court shall be desirous of practising in any of Her Britannic Majesty's Provincial Courts in China, the Chief Justice of the Supreme Court may admit such person to practise in any of such Courts, on the Chief Justice being satisfied that such person is a fit and proper person to practise therein.

GEORGE FRENCH,
Chief Justice.

Approved:
GRANVILLE.

(No. 85.) *ORDER IN COUNCIL, repealing certain Clauses of the Order in Council of 9th March, 1865, as well as certain Regulations made thereunder; confirming certain Port, Consular, Customs, Harbour, and other Regulations; authorizing the issue of Regulations for the Management of Prisons, as well as for the Registration, &c., of Mortgages, Bills of Sale, and Partnerships; and defining the procedure to be adopted in the case of Civil Suits by, or against Foreigners, or before Chinese, Japanese, or Foreign Tribunals. Balmoral, 25th October,* 1881.*

At the Court at Balmoral, the 25th day of October, 1881.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS Her Majesty the Queen has power and jurisdiction in relation to Her Majesty's subjects and others in the dominions of the Emperor of China and the dominions of the Mikado of Japan:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878, or otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Preliminary.

1. This Order may be cited as the China and Japan Order in Council, 1881.

2. This Order shall, except as otherwise expressed, commence and take effect from and immediately after the 31st day of December, 1881, which time is in this Order referred to as the commencement of this Order.

3. In this Order—

"China" means the dominions of the Emperor of China:

"Japan" means the dominions of the Mikado of Japan:

"Minister" means superior Diplomatic Representative, whether Ambassador, Envoy, Minister Plenipotentiary, or Chargé d'Affaires:

"Consular Officer" includes every officer in Her Majesty's Consular service, whether Consul-General, Consul, Vice-Consul, or Consular Agent, or person authorised to act in any such capacity in China or in Japan:

"British subject" means a subject of Her Majesty whether by birth or by naturalisation:

"Foreigner" means a subject of the Emperor of China or of the Mikado of Japan, or a subject or citizen of any other State in amity with Her Majesty:

* Applied to Corea by Order in Council of 9th September, 1884. H. F. Vol. 17. Page 286.

"Treaty" includes Convention, and any Agreement, Regulations, Rules, Articles, Tariff, or other instrument annexed to a Treaty, or agreed on in pursuance of any stipulation thereof:

"Month" means calendar month:

Words importing the plural or the singular may be construed as referring to one person or thing, or more than one person or thing, and words importing the masculine as referring to females (as the case may require).

Repeal.

4. Subject to the provisions of this Order, Articles 85 to 91,* inclusive, of the China and Japan Order in Council, 1865, authorizing the making of Regulations for the purposes and by the authority therein mentioned, and the Regulations made thereunder, dated respectively 11th July, 1866, and 16th November, 1866, relating to mortgages, bills of sale, and proceedings against partnerships or partners or agents thereof, and Rule 232 of the Rules of the Supreme Court and other Courts in China and Japan of 4th May, 1865, relating to proceedings by or against partnerships, and Articles 117 and 118 of the China and Japan Order in Council, 1865, relating to foreigners and foreign tribunals, are hereby repealed, as from the commencement of this Order; but this repeal does not affect any right, title, obligation or liability acquired or accrued before the commencement of this Order.

Confirmation of Regulations not Repealed.

5. Such Regulations as are described in the Schedule to this Order, being Regulations made or expressed or intended to be made under or in execution of the powers conferred by Articles 85 to 91 of the China and Japan Order in Council, 1865, and all other Regulations made or expressed or intended to be so made, and having been approved, or, in case of urgency, not disapproved, under that Order, before the commencement of this Order, except the Regulations expressed to be repealed by this Order, are hereby confirmed, as from the passing of this Order, and the same, as far as they are now in force, shall be in force, and shall be deemed to have always been of the like validity and effect as if they had been originally made by Order in Council.

Authority for further Regulations.

6. Her Majesty's Minister in China may from time to time, subject and according to the provisions of this Order, make such Regulations as to him seem fit for the peace, order, and good government of British subjects, resident in or resorting to China.

7. The power aforesaid extends to the making of Regulations for securing observance of the stipulations of Treaties between Her

Majesty, Her Heirs and Successors, and the Emperor of China, and for maintaining friendly relations between British subjects and Chinese subjects and authorities.

8. Her Majesty's Minister in China may, as he thinks fit, make any Regulation under this Order extend either throughout China or to some one or more only of the Consular districts in China.

9. Her Majesty's Minister in China, in the exercise of the powers aforesaid, may, if he thinks fit, join with the Ministers of any foreign Powers in amity with Her Majesty in making or adopting Regulations with like objects as the Regulations described in the Schedule to this Order, commonly called the Shanghai Land Regulations, or any other Regulations for the municipal government of any foreign concession or settlement in China; and, as regards British subjects, joint Regulations so made shall be as valid and binding as if they related to British subjects only.

10. Her Majesty's Minister in China may, by any Regulation made under this Order, repeal or alter any Regulation made under the China and Japan Order in Council, 1865, or under any prior like authority.

11.—(*a.*) Regulations made under this Order shall not have effect unless and until they are approved by Her Majesty the Queen, that approval being signified through one of Her Majesty's Principal Secretaries of State,—save that, in case of urgency declared in any such Regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by Her Majesty the Queen, that disapproval being signified through one of Her Majesty's Principal Secretaries of State, and until notification of that disapproval has been received and published by Her Majesty's Minister in China.

(*b.*) That approval, where given, shall be conclusive, and the validity or regularity of any Regulations so approved shall not be called in question in any legal proceeding whatever.

12. Any Regulations made under this Order may, if Her Majesty's Minister in China thinks fit, impose penalties for offences against the same.

13. Penalties so imposed shall not exceed the following, namely,—for any offence imprisonment for three months, with or without hard labour, and with or without a fine of 500 dollars, or a fine of 500 dollars, without imprisonment,—with or without a further fine, for a continuing offence, of 25 dollars for each day during which the offence continues after the original fine is incurred.

14. Regulations imposing penalties shall be so framed as to allow in every case of part only of the highest penalty being inflicted.

15. All Regulations made under this Order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall be affixed, and be at all times kept exhibited conspicuously in the public office of each Consulate in China.

16. Printed copies of the Regulations shall be kept on sale at

such reasonable price as Her Majesty's Minister in China from time to time directs.

17. Where a Regulation imposes a penalty, the same shall not be enforceable in any Consular district until a printed copy of the Regulation has been affixed in the public office of the Consulate for that district, and has been kept exhibited conspicuously there during one month.

18. A charge of an offence against a Regulation made under this Order, imposing a penalty, shall be inquired of, heard, and determined as an ordinary criminal charge under the China and Japan Order in Council, 1865, except that (notwithstanding anything in that Order) where the Regulation is one for securing observance of the stipulations of a Treaty, the charge shall be heard and determined in a summary way, and (where the proceeding is before a Provincial Court) without Assessors.

19. A printed copy of a Regulation, purporting to be made under this Order and to be certified under the hand of Her Majesty's Minister in China, or under the hand and Consular seal of one of Her Majesty's Consular Officers in China, shall be conclusive evidence of the due making of the Regulation, and of its contents.

20. The foregoing provisions authorizing Regulations for China are hereby extended to Japan, with the substitution of Japan for China, and of the Mikado of Japan for the Emperor of China, and of Her Majesty's Minister in Japan for Her Majesty's Minister in China, and of Her Majesty's Consular Officers in Japan for Her Majesty's Consular Officers in China.

Prison Regulations.

21. The respective powers aforesaid extend to the making of Regulations for the governance, visitation, care and superintendence of prisons in China or in Japan, and for the infliction of corporal or other punishment on prisoners committing offences against the rules or discipline of a prison; but the provisions of this Order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of Regulations, and the mode of trial of charges of offences against Regulations, do not apply to Regulations respecting prisons and offences of prisoners.

Mortgages.

22. A deed or other instrument of mortgage, legal or equitable, of lands or houses in China or in Japan, executed by a British subject may be registered at any time after its execution at the Consulate of the Consular district wherein the property mortgaged is situate.

23. Registration is made as follows: The original and a copy of the deed or other instrument of mortgage, and an affidavit verifying the execution and place of execution thereof, and

verifying the copy, are brought into the Consulate; and the copy and affidavit are left there.

24. If a deed or other instrument of mortgage is not registered at the Consulate aforesaid within the respective time following (namely):—

(i.) Within 14 days after its execution, where it is executed in the Consular district wherein the property mortgaged is situate:

(ii.) Within two months after its execution, where it is executed in China or Japan, elsewhere than in that Consular district, or in Hong Kong:

(iii.) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong Kong:

then and in every such case, the mortgage debt secured by the deed or other instrument and the interest thereon shall not have priority over judgment or simple contract debts contracted before the registration of that deed or other instrument.

25. Registered deeds or other instruments of mortgage, legal or equitable, of the same lands or houses have, as among themselves, priority in order of registration.

26.—(*a.*) The provisions of this Order do not apply to a deed or other instrument of mortgage executed before the commencement of this Order.

(*b.*) As regards a deed or other instrument of mortgage executed before the commencement of this Order, the Regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by Order in Council.

27. The power conferred on the Chief Justice of the Supreme Court for China and Japan by Article 127 of the China and Japan Order in Council, 1865,* of framing Rules from time to time, is hereby extended to the framing of Rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the register of mortgages, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any deed or other instrument of mortgage, or the registering of any release or satisfaction in respect thereof.

Bills of Sale.

28. The provisions of this Order relating to bills of sale—

(i.) Apply only to such bills of sale executed by British subjects as are intended to affect chattels in China or in Japan:

(ii.) Do not apply to bills of sale given by sheriffs or others under or in execution of process authorizing seizure of chattels.

* Page 452.

29.—(*a.*) Every bill of sale must conform with the following rules (namely):

(1.) It must state truly the name, description, and address of the grantor.

(2.) It must state truly the consideration for which it is granted.

(3.) It must have annexed thereto or written thereunder an inventory of the chattels intended to be comprised therein.

(4.) Any defeasance, condition, or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.

(5.) The execution of the bill must be attested by a credible witness, with his address and description.

(*b.*) Otherwise, the bill is void in China and in Japan to the extent following, but not further (that is to say):

(i.) In the case of failure to conform with the rule respecting an inventory, as far as regards chattels omitted from the inventory; and

(ii.) In any other case, wholly.

(*c*) The inventory, and any defeasance, condition, or declaration as aforesaid, respectively, is for all purposes deemed part of the bill.

30. A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattels in China, at the Supreme Court; and if it is intended to affect chattels in Japan, at the Court for Japan; or in either case at the Consulate of the Consular district wherein the chattels are; within the respective time following and not afterwards (namely):

(i.) Within 14 days after its execution, where it is executed in the Consular district wherein the chattels are:

(ii.) Within two months after its execution, where it is executed in China or in Japan, elsewhere than in that Consular district, or in Hong Kong:

(iii.) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong Kong.

31. Registration is made as follows: The original and a copy of the bill of sale, and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and verifying the copy, are brought into the proper office of the Court or the Consulate; and the copy and affidavit are left there.

32. If a bill of sale is not registered at a place and within the time by this Order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in China or in Japan, according as that place is in China or in Japan, to the extent following, but not further that is to say:

(i.) As against trustees of assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors, and

(ii.) As against all sheriffs and others seizing chattels under process of any Court, and any person on whose behalf the seizure is made; but only

(iii.) As regards the property in, or right to, the possession of such chattels comprised in the bill as, at or after the filing of the petition for bankruptcy or liquidation, or the execution of the assignment, or the seizure, are in the grantor's possession, or apparent possession.

33. Registered bills of sale affecting the same chattels have as among themselves priority in order of registration.

34. Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor within the law of bankruptcy.

35. If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this Order allowed for registration thereof, a subsequent bill of sale is granted affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt, absolutely void, unless the Supreme Court for China and Japan, or the Court for Japan, as the case may require, is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill, and not for the purpose of unlawfully evading the operation of this Order.

36. The registration of a bill of sale must be renewed once at least every five years.

37. Renewal of registration is made as follows: An affidavit stating the date of and parties to the bill of sale, and the date of the original registration, and of the last renewal, and that the bill is still a subsisting security, is brought into the proper office of the Court or the Consulate of original registration, and is left there.

38. If the registration of a bill of sale is not so renewed in any period of five years, then on and from the expiration of that period the bill is deemed to be unregistered.

39. The provisions of this Order relating to renewal apply to bills of sale registered under the Regulations repealed by this Order.

40. A transfer or assignment of a registered bill of sale need not be registered; and renewal of registration is not necessary by reason only of such a transfer or assignment.

41. Where the time for registration or renewal of registration of a bill of sale expires on a Sunday, or other day on which the office for registration is closed, the registration or renewal is valid if made on the first subsequent day on which the office is open.

42. If in any case the Supreme Court for China and Japan, or the Court for Japan, as the case may require, is satisfied that failure to register or to renew the registration of a bill of sale in due time, or any omission or misstatement connected with registration or renewal, was accidental or inadvertent, the Court may, if

it thinks fit, order the failure, omission, or misstatement to be rectified in such manner and on such terms, if any, respecting security, notice by advertisement or otherwise, or any other matter, as the Court thinks fit.

43.—(*a.*) The provisions of this Order, except as regards renewal of registration, do not apply to a bill of sale executed before the commencement of this Order.

(*b.*) As regards a bill of sale executed before the commencement of this Order, the Regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by Order in Council.

44. The power conferred on the Chief Justice of the Supreme Court for China and Japan by Article 127,* of the China and Japan Order in Council, 1865, of framing rules from time to time, is hereby extended to the framing of rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the registers of bills of sale, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any bill of sale, or the registering of any release or satisfaction in respect thereof.

Suits by or against Partners.

45.—(*a.*) The following are Rules of Procedure of Her Majesty's Courts in China and in Japan under the China and Japan Order in Council, 1865:

(1.) Persons claiming or being liable as partners may sue or be sued in the firm name, if any.

(2.) Where partners sue in the firm name, they must, on demand in writing on behalf of any defendant, forthwith declare the names and addresses of the partners.

(3.) Otherwise, all proceedings in the suit may, on application, be stayed on such terms as the Court thinks fit.

(4.) When the names of the partners are so declared, the suit proceeds in the same manner, and the same consequences in all respects follow, as if they had been named as the plaintiffs in the petition.

(5.) All subsequent proceedings nevertheless continue in the firm name.

(6.) Where partners are sued in the firm name, the petition must be served either on one or more of the partners within the jurisdiction, or at the principal place of the partnership business within the jurisdiction on some person having then and there control or management of the partnership business.

(7.) Where one person, carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm name, the petition may be served at the principal place of the

* P[illegible]

business within the jurisdiction on some person having then and there control or management of the business.

(8.) Where partners are sued in the firm name, they must appear individually in their own names.

(9.) All subsequent proceedings nevertheless continue in the firm name.

(10.) Where a person, carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm name he must appear in his own name.

(11.) All subsequent proceedings nevertheless continue in the firm name.

(12.) In any case not hereinbefore provided for, where persons claiming or being liable as partners sue or are sued in the firm name, any party to the suit may, on application to the Court, obtain a statement of the names of the persons who are partners in the firm, to be furnished and verified on oath or otherwise, as the Court thinks fit.

(13.) Where a judgment is against partners in the firm name, execution may issue—

(i.) Against any property of the partners as such; and

(ii.) Against any person who has admitted in the suit that he is a partner, or who has been adjudged to be a partner; and

(iii.) Against any person who has been served in the suit as a partner, and has failed to appear.

(14.) If the party who has obtained judgment claims to be entitled to issue execution against any other person, as being a partner, he may apply to the Court for leave so to do; and the Court, if the liability is not disputed, may give such leave, or if it is disputed may order that the question of the liability be tried and determined as a question in the suit, in such manner as the Court thinks fit.

(*b.*) The foregoing Rules may be from time to time varied by Rules of Procedure made under the China and Japan Order in Council, 1865.

(*c.*) Printed copies of the foregoing Rules must be exhibited conspicuously in each Court and Consulate in China and Japan, with the other Rules of Procedure for the time being in force under the China and Japan Order in Council, 1865, and be sold at such reasonable price as the Chief Justice of the Supreme Court from time to time directs.

(*d.*) A printed copy of the foregoing Rules purporting to be certified under the hand of the Chief Justice of the Supreme Court and the seal of that Court is for all purposes conclusive evidence thereof.

46.—(*a.*) The provisions of this Order do not apply to proceedings instituted by or against partnerships or partners or agents thereof, before the commencement of this Order.

(*b.*) As regards proceedings instituted by or against partner

ships or partners or agents thereof before the commencement of this Order, the Regulations repealed by this Order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had been Rules of Procedure made under the China and Japan Order in Council, 1865; and, as regards the same proceedings the Rule of Procedure (252) repealed by this Order shall continue to have effect, notwithstanding that repeal, subject always to the operation of the Regulations repealed by this Order.

Suits by or against Foreigners.

47.—(*a.*) Where a foreigner desires to institute or take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding of a civil nature against a foreigner, the Supreme Court for China and Japan, and the Court for Japan, and a Provincial Court, according to the respective jurisdiction of the Court, may entertain the suit or proceeding, and hear and determine it; and, if all parties desire, or the Court directs, a trial with a jury or assessors, then, with a jury or assessors, at a place where such a trial might be held if all parties were British subjects but in all other respects according to the ordinary course of the Court:

(*b.*) *

(*c.*) A counter-claim or cross-suit cannot be brought or instituted in the Court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the Court first obtained.

(*d.*) The Court, before giving leave, requires proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(*e.*) Nothing in this provision prevents the defendant from instituting or taking in the Court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the Court against the foreigner if no provision restraining counter-claims or cross-suits had been inserted in this Order.

(*f.*) Where a foreigner obtains in the Court an Order against a defendant being a British subject and in another suit that defendant is plaintiff and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the Order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

* Repealed as respects China, Japan, and Corea, by Order in Council, 3rd August, 1886, and a fresh provision substituted. See page 643

(*g.*) Where a plaintiff, being a foreigner, obtains in the Court an order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff, and the foreigner is defendant, the Court may, if it thinks fit, on the application of the British subject, stay the enforcement of the Order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(*h.*) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless the Court so directs; but the co-plaintiff British subject is responsible for all fees and costs.

Chinese, Japanese, or Foreign Tribunals.

48.—(*a.*) Where it is shown to the Supreme or other Court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Chinese or Japanese Court, or before a Chinese or Japanese judicial officer, or in a Court, or before a judicial officer of any State in amity with Her Majesty, the Supreme or other Court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend as so required.

(*b.*) A Provincial Court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(*c.*) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Supreme or other Court, he is, independently of any other liability, guilty of an offence against this Order, and for every such offence, on conviction thereof, by summary trial, is liable to a fine not exceeding 500 dollars, or to imprisonment for not exceeding one month, in the discretion of the Court.

And the Right Honourable the Earl Granville, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein.

C. L. PEEL.

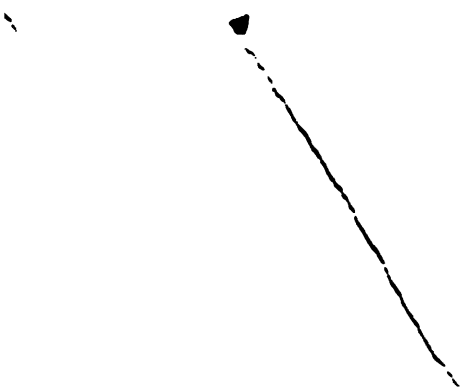
The Schedule to which the foregoing Order in Council refers.

I.—Regulations made by Sir Rutherford Alcock while Her Majesty's Minister in China, intituled or designated as Land Regulations, Regulations, and Bye-Laws annexed to the Land Regulations, for the foreign quarter of Shanghai north of the

Yang-King-Pang, and commonly called the Shanghai Land Regulations.*

II.—Port, Consular, Customs, and Harbour Regulations applicable to all the Treaty ports in China, dated 31st May, 1869.†

* No date was given to these Regulations in the Order in Council, but they were made in 1869. See page 559.
† Page 590.



(No. 86.) *ORDER IN COUNCIL amending the Order of 6th August, 1874, with regard to the Shanghai Shipping Registry. Windsor, 22nd May, 1883.**

At the Court at Windsor, the 22nd day of May, 1883.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by the Merchant Shipping Act, 1873 (Section 29),† it is enacted (among other things) to the effect that where, in accordance with the Foreign Jurisdiction Acts, Her Majesty exercises jurisdiction within any port out of Her Majesty's dominions, it shall be lawful for Her Majesty, by Order in Council, to declare such port a port of registry, therein referred to as a foreign port of registry, and by the same or any subsequent Order in Council to declare the description of persons who are to be the Registrars of British ships at such foreign port of registry and to make regulations with respect to the registry of British ships thereat.

And whereas in accordance with the Foreign Jurisdiction Acts Her Majesty exercises jurisdiction within the port of Shanghai in China.

And whereas by virtue of the power aforesaid Her Majesty was pleased by and with the advice of Her Privy Council, by the China and Japan Maritime Order in Council, 1874,‡ to declare and order (among other things) that the port of Shanghai should be a port of registry, and to provide for the appointment of a Registrar there, and for other purposes connected therewith:

And whereas it has been made to appear to Her Majesty that it is expedient to amend the said Order in Council with respect to the mode of appointment of the Registrar, and in other respects.

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Merchant Shipping Act, 1873, and the Foreign Jurisdiction Acts, 1843 to 1878, or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order and declare, and it is hereby ordered and declared as follows:

1. Articles 5, 7, and 8 (relating to the appointment and the tenure of office of the Registrar) of the China and Japan Maritime Order in Council, 1874, are hereby repealed.

2. The Registrar of British ships at the port of Shanghai, as a foreign port of registry, shall be such one of Her Majesty's Consular Officers at Shanghai as one of Her Majesty's Principal Secretaries of State from time to time appoints by writing signed by him.

* "London Gazette," 29th May, 1883.
† 26 & 27 Vict., cap. 85. H. T. Vol. 14. Page 714.
‡ Order in Council, 6th August, 1874, §§ 4—11. Page 597.

3. The following Articles of the China and Japan Maritime Order in Council, 1874, and hereby incorporated with this Order, and for the purposes of this Order shall be read as part thereof, namely,—Article 2 (interpretation), Article 3 (application of Order), Article 25 (publication of Order).

4. This Order may be cited as the Shanghai Shipping Registry Order in Council of 1883, and this Order and the China and Japan Maritime Order in Council, 1874, may be cited together as the Shanghai Shipping Registry Orders in Council of 1874 and 1883.

C. L. PEEL.

(No. 87.) *ORDER IN COUNCIL respecting Suits by or against Foreigners. 3rd August*, 1886.*

At the Court at Osborne House, Isle of Wight, the 3rd day of August, 1886.

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY.

WHEREAS it is expedient to amend the Orders in Council relating to the exercise of Her Majesty's power and jurisdiction in China, Japan, and Corea;

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1843 to 1878, and otherwise, in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as "The China, Japan, and Corea Order in Council, 1886."

2. So much of the 47th section of the China and Japan Order in Council, 1881, as is contained in the second sub-section thereof, commencing with the word "provided," and ending with the word "appeal," and relating to the conditions on which jurisdiction may be exercised in the case of foreigners desiring to submit to the jurisdiction of Her Majesty's Courts, is hereby repealed as respects China, Japan, and Corea, and the following provision is substituted:—

(*b.*) Provided that the foreigner: (i.) first files in the Court his consent to the jurisdiction of the Court; and (ii.) also, if required by the Court, obtains and files a certificate in writing from a competent authority of his own Government to the effect that no objection is made by that Government to the foreigner submitting in the particular cause or matter to the jurisdiction of the Court; and (iii.) also, if required by the Court, gives security to the satisfaction of the Court, to such reasonable amount as the Court directs, by deposit of money or otherwise, to pay fees, costs, damages, and expenses, and to abide by and perform the decision to be given by the Court or on appeal.

3. This Order shall come into operation as from the date of its publication in the "London Gazette," but until the 1st October, 1886, proceedings may be taken either in accordance with the provision hereby repealed, or in accordance with the provisions of this Order.

C. L. PEEL.

* "London Gazette," 6th August, 1886.

(No. 88.) *RULE authorizing a Table of Fees to be levied by Her Majesty's Courts in China, Japan, and Corea.* 1st *October*, 1888.

RULE made by R. A. Mowat, Esquire, Acting Chief Justice of Her Britannic Majesty's Supreme Court for China and Japan, under Section 127 of "The China and Japan Order in Council, 1865,"* and Section 4, Sub-section 3, of "The China, Japan, and Corea Order in Council, 1884,"† and approved by Her Majesty's Principal Secretary of State for Foreign Affairs.

THE following Table of Fees to be taken by Her Majesty's Supreme Court and other Courts in China, Japan, and Corea in civil and criminal proceedings, shall be substituted, as regards all proceedings commenced after the date of the publication of this Rule, for the Table of Fees annexed to the Rules of Her Britannic Majesty's Supreme Court for China and Japan, dated 4th May, 1865‡, and the fees specified in the table hereby substituted shall be levied accordingly.

1st October, 1888.

R. A. MOWAT, *Acting Chief Justice.*

TABLE.

I.—CIVIL MATTERS.

Service.

	Dol.	c.
1. For service of summons, petition, motion-paper, notice, warrant, decree, order, or other document on a party, witness, juror, assessor, or other person, under any branch whatever of the civil jurisdiction—		
Within 1 mile (English) of Court	1	00
Beyond, for every mile or part of a mile	0	50
2. For service effected through another Court	Fee No. 1 in addition to such fee as the other Court charges for service.	

Decision of Questions without formal Suit.

3. On summons for statement of issue or for special case	7	00
4. On order for issue or for special case	5	00
5. On hearing	1½ per cent. on amount at issue.	

Summary Procedure on Bills of Exchange and Promissory Notes.

6. On summons	5	00
7. On decree	1½ per cent. on amount.	

* Page 136. † Page 600. ‡ Page 648.

Arbitration.

		Dol.	c.
8.	Order for reference to arbitration in pending suit	2	00
9.	On application to make submission to arbitration a Rule of Court ..	5	00
10.	On order	2	00

Summary Procedure for Administration of Property of Deceased Persons.

11.	On summons	10	00
12.	On order	10	00

Summary Orders before Suit.

13.	On application for order	5	00
14.	On recognizance	5	00
15.	On order	2	50

Bankruptcy. (Act 1883.)

16.	Every declaration by a debtor of inability to pay his debts	2	00
17.	Every bankruptcy notice	2	00
18.	Every bankruptcy petition	30	00
19.	Every bond with sureties	5	00
20.	Every affidavit filed (other than proof of debt)..	1	00
21.	Every subpœna	1	00
22.	Every affidavit for proof of debt	0	50
23.	Every petition under section 125 of the Act	30	00
24.	Every receiving order under section 103 of the Act	30	00
25.	Every application for an order of discharge	12	00
26.	For every creditor to be notified	0	50
27.	Every application to the Court under sections 18 and 23 to approve a composition	1 per cent. on the gross amount of the composition.	
28.	Every application to a Court, except by Official Receiver	2	00
29.	Every application under Section 162 to the Supreme Court or Court for Japan for payment of money out of the Bankruptcy Estates (unclaimed) account	2	00
30.	On the assets realised or brought to credit by the Official Receiver whether acting as interim Receiver or Trustee, not being assets received and spent in carrying on the business of the debtor	6 per cent.	
31	Travelling and other reasonable expenses of Official Receiver, at discretion of the Court.		

Note.—All applications, orders, &c., in bankruptcy, other than as above specified, to be charged for as in ordinary suits.

Probate and Administration.

32.	On application for probate or administration	5	00
33.	On oath of every executor or administrator	3	00
34.	On administration bond	1	00
35.	On probate or administration	The like sum as is payable in England for stamp duty.	

N.B.—If the whole personal estate, without making any deduction for debts or funeral expenses, is under 600 dollars, the total fees payable for obtaining probate or administration, including the preparation of the necessary forms, shall be.. .. 5 00

Where the whole value of the estate, without deduction for debts or funeral expenses, is 600 dollars or over, but does not exceed 1,800 dollars, there shall be payable in addition, in lieu of stamp duty, a fixed fee of 10 00

	Dol.	c.
36. On official administration under the direction of the Chief Justice, in addition to the usual probate fees to the Official Administrator, a commission of 2½ per cent.		
37. For preparing copy of will or of exemplification of probate or administration, where not prepared by the parties themselves, to copying clerks, for every 100 words	0	25
38. For certifying copy of will or of exemplification of probate or administration, for every 100 words	0	25
39. For every search for or inspection of any original will or grant of probate or administration	1	00

Admiralty.

40. On every præcipe	5	00
41. On every warrant or citation	15	00
42. On every detainer	15	00
43. On retaining possession of a ship or of cargo, including cost of a keeper, per day	3	00
44. On every release	5	00
45. On every commission, monition, decree, attachment, or other instrument, for which a fee is not specially provided	15	00
46. On every bail bond..	5	00
47. On every reference to the Registrar (with or without the attendance of merchants), to the Registrar and to each merchant, for first day	25	00
48. For every subsequent day after the first day, to the Registrar and to each merchant	15	00
49. On filing Registrar's report	10	00
50. On taxation of a bill of costs, for every 100 dollars or fraction thereof allowed	2	00
51. Poundage on moneys paid out of the Registry in any cause, if the sum does not exceed 500 dollars	2	00
52. Poundage on moneys paid out of the Registry in any cause, if the sum exceeds 500 dollars, but does not exceed 1,000 dollars	5	00
53. For every additional 500 dollars or fraction thereof over 1,000 dollars	2	00

Note.—The same fees are to be charged on interlocutory proceedings, on petition, and on hearing, as are charged in ordinary suits.

Ordinary Suits.

54. In every suit of any kind whatever other than such as are before specified, where the sum of money or the value of the property claimed is—

	On Summons or Petition.	On Hearing.
	Dol. c.	Dol. c.
Under 100 dollars	1 00	1 00
100 and under 250 dollars	2 00	2 00
250 and under 10,000 dollars	1 per cent. on amount	1½ per cent. on amount
10,000 dollars or upwards	100 00	150 00
55. Where judicial relief or assistance is sought, but the right to money or property is not involved	10 00	10 00

	Dol.	c.
56. On filing any document, except where a fee is specially provided by this scale	1	00
57. On every summons, motion, application taken out or made	1	00
58. On hearing every summons, motion, or application	2	00
59. On every decree or order	1	00
60. On order for adjournment of hearing rendered necessary by default of either party (to be paid by that party)	3	00
61. On every warrant of execution against goods—		
For less than 250 dollars	2	00
For 250 dollars and upwards	5	00
62. For keeping possession, per diem	3	00
63. On taxation of a bill of costs, for every 100 dollars or fraction thereof allowed	2	00

Appeal to Supreme Court or to Court for Japan.

	Where amount involved is under 1,250 dollars.	Where amount involved is 1,250 dollars or upwards.
	Dol. c.	Dol. c.
64. On motion for leave to appeal	2 50	5 00
65. On every security	2 50	5 00
66. On order for leave to appeal	5 00	10 00
	On Petition or Motion.	On Hearing.
67. On appeal where judicial relief or assistance is sought, but not the recovery of money..	10 00	10 00
68. On any appeal other than as before stated ..	2 per cent. on amount involved, but not to exceed 200 dollars.	

	Dol.	c.
69. For preparing record of appeal, to copying clerk, such sum as the Court directs (not exceeding 25 cents for every 100 words).		
70. For certifying record of appeal, every 100 words	0	25

Appeal to Her Majesty in Council.

71. On motion for leave to appeal	15	00
72. On every security	15	00
73. On order for leave to appeal	25	00
74. For preparing record of appeal, to copying clerk, such sum as the Court directs (not exceeding 25 cents for every 100 words).		
75. For certifying record of appeal, every 100 words	0	25

Miscellaneous.

76. On deposit of will for safe custody, under Rule 183, including receipt for same	5	00
77. On deposit of money, other than sums paid in under any judgment or order of the Court	1 per cent. on amount.	
78. On registration of bill of sale	5	00
79. Renewal of bill of sale	2	50
80. For taking an affidavit or affirmation	1	00
81. For every exhibit annexed..	0	50

	Dol.	c.
82. On every reference to the archives	1	00
83. For certified copy of any document in the archives--		
For first 100 words	1	00
For every further 100 words	0	50
84. For communication in writing to a foreign Court, Consulate, or to a local Chinese or Japanese authority	2	50

(No. 89.) *CHINESE NOTE. Procedure to be observed in cases where the Provincial Authorities in China may desire to enter into Contracts with Foreign Financial Houses for the purpose of obtaining Loans.*—*23rd February*, 1892.*

Chinese Legation,
23rd February, 1892.

My Lord Marquis,

I HAVE the honour to forward to your Lordship the enclosed copy of a Circular Note which the Tsungli-Yamên have addressed to the Representative of China in foreign countries, and which they have directed them to communicate to the Courts to which they are severally accredited

As your Lordships will perceive on perusing the Note, it relates to the procedure to be observed in cases where the Governors-General, Governors, and others may desire to enter into contracts with foreign financial houses with the object of obtaining loans.

Henceforth, no contract for a provincial loan is to be concluded until the local official for whose administration the money is required shall have submitted it to the Central Government, and a notification that the project has received the Imperial sanction shall have been made by the Tsungli-Yamên to the Representative at Pekin of the country more immediately concerned in the transaction. Loans contracted by the local authorities in contravention of this procedure will consequently be held to be illegal, and the Chinese Government absolved from all responsibility in connection with them.

* "London Gazette," 4th March, 1892.

This measure, which has been approved by His Majesty the Emperor, by an Imperial Decree, issued at the instance of the Tsungli-Yamên, dated the 25th November, 1891, has for its object the safeguarding of Chinese credit and the protection of foreign financiers from the loss and disappointment to which they might be subjected, in consequence of the powers of the Provincial Authorities to pledge the Imperial credit not being clearly defined.

I have the honour to request that your Lordship will be so good as to take such steps as may appear to you best fitted to bring the Circular Note under the observation of English financiers and others whom it may concern.

I have, &c.,
SIEH.

The Most Noble the Marquis of Salisbury, K.G.,
H.B.M.'s Principal Secretary of State
for Foreign Affairs.

Translation of Inclosure.

CIRCULAR NOTE addressed by the Tsungli-Yamên to the Representatives of China in foreign countries.

Gentlemen,

YOU are aware that loans contracted with foreigners by our Provincial Authorities, Viceroys, and Governors, to meet administrative needs have always been submitted for the preliminary authorisation of the Central Government at Pekin. This authorisation must be requested by a special report presented to the Throne and must be confirmed by an official notification of the Tsungli-Yamên addressed to the Representatives of the Powers concerned.

But certain Viceroys and Governors of Provinces having recently taken upon themselves to contract loans without presenting a report to the Throne to request its authorisation of the same, the Tsungli-Yamên and the Ministry of Finance, sensible of this abuse, which is much to be regretted, thought it right to submit the following measure for the approval of the Emperor:—

"For the future, whenever our Provincial Authorities, Viceroys, Governors, and others shall approach foreign financiers with a view to contracting a loan, these latter should immediately communicate this fact to the Representative of their country accredited at Pekin. The Representative should then ask the Tsungli-Yamên officially whether the loan is authorised by the Central Government, upon a report duly presented to that effect. If such should be the case, the loan may be concluded; in the contrary event, it shall not be valid.

"The Imperial Government will decline all responsibility for

loans contracted without its authorisation, even though a formal contract be produced bearing the seal and signature of the Provincial Authorities. It is unnecessary to add that the Chinese Government will, in such a case, take no action in favour of the creditors."

The preceding stipulations have been approved by His Majesty the Emperor, in a Decree dated the 25th of November, 1891.

You are instructed to bring this Circular Note, in writing, to the knowledge of the Governments to which you are accredited; it has also been communicated by us to the Representatives of the Powers at Pekin.

You will not omit to add that this measure on the part of the Chinese Government has been dictated by the desire to protect the credit of China, as well as the interests of foreign financiers, and that we are therefore anxious that this communication should be made public by the Governments to which you are accredited, in order that it may be generally known how this matter stands.

(No. 90.) *ORDER IN COUNCIL establishing Tables of Consular and Marriage Fees to be taken in China, Japan, and Corea. Osborne House, 18th August,* 1892.*

At the Court at Osborne House, Isle of Wight, the 18th day of August, 1892

PRESENT: THE QUEEN'S MOST EXCELLENT MAJESTY

Lord Chancellor, Lord President, Lord Privy Seal, Marquess of Salisbury, Marquess of Lothian, Lord George Hamilton, Viscount Cross, Secretary Lord Knutsford, Mr. Secretary Stanhope, Mr. Goschen, Mr. Balfour, Sir J. Parker Deane.

WHEREAS by "The Consular Salaries and Fees Act, 1891," Her Majesty the Queen is authorized by Order in Council to fix the fees to be taken in respect of any matter or thing done by a Consular Officer in the execution of his office, and to vary such fees by way of increase or decrease, and to abolish fees, and to create new fees.

And whereas, by "The Foreign Marriage Act, 1892," and by "The Foreign Marriages Order in Council, 1892," made in pursuance of that Act, it is provided that certain things may, or shall, be done on payment of the proper fee, and that Act further provides that the proper fee shall be such fee as may for the time being be fixed under the first recited Act, and that the fee so fixed as respects a Consul shall be the fee which shall be taken by any Marriage Officer.

And whereas under "The Foreign Jurisdiction Act, 1890," Her Majesty in Council has power to make Orders in Council, and also to revoke or vary Orders in Council made, or deemed to have been made, in pursuance of that Act.

And whereas it is expedient that the Table of Fees fixed by "The China, Japan, and Corea (Consular Fees) Order in Council, 1892," should in certain respects be amended, and that the whole of the fees to be taken by Consular Officers and Marriage Officers in places to which this Order extends should be fixed by an Order in Council made under the provisions of "The Consular Salaries and Fees Act, 1891."

Now, therefore, in pursuance of the before-mentioned Acts, it is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, as follows:—

1. This Order may be cited as "The Consular Fees (China, Japan, and Corea) Order in Council, 1892."

2. The several fees set forth in the tables annexed to this Order are hereby established, and the said tables and notes thereto shall be construed as part of this Order.

* "London Gazette," 23rd August, 1892.

3. Such provisions of any Order in Council made or continued in force under the provisions of "The Foreign Jurisdiction Act, 1890," and relating or applicable to China, Japan, or Corea, as are inconsistent with anything in this Order, are hereby revoked, and the provisions of this Order, and of the said tables, shall be and are hereby substituted for such first-mentioned provisions, and the fees herein prescribed may or shall be taken accordingly.

4. This Order shall come into operation on the 1st January, 1893, or at such later date as, in the case of any particular Consular jurisdiction, or part thereof, one of Her Majesty's Principal Secretaries of State, by any general or particular instructions, may from time to time direct.

5. On and after the day on which this Order comes into operation in any place to which this Order applies, "The China, Japan, and Corea (Consular Fees) Order in Council, 1892," shall be repealed as to that place, but this repeal shall not revive any table, provision, or Order in Council abolished or repealed by the said Order, or affect any right or liability existing at the commencement of this Order in any place.

6. In this Order the expression "Consular jurisdiction" means and includes the district, place, or places for which a Consular Officer acts.

7. This Order shall extend to all places in China, Japan, and Corea.

TABLES of Consular and Marriage Fees to be taken in China, Japan, and Corea, in pursuance of "The Consular Salaries and Fees Act, 1891," "The Foreign Marriage Act, 1892," "The Foreign Marriages Order in Council, 1892," and "The Consular Fees (China, Japan, and Corea) Order in Council, 1892."

PART I.

Fees to be taken in respect of Matters in which the Interposition of a Consular Officer is required by Law.

MATTER IN RESPECT OF WHICH THE FEE IS TO BE TAKEN.	Dol.	c.
1. For every declaration taken or recorded under the Merchant Shipping Acts, with a view to the registry, transfer, and transmission of ships, interests in ships, or mortgages on ships	2	00
2. For indorsing a memorandum of change of master upon the certificate of registry, and initialling his signature on agreement with crew, if required	1	00
3. For granting a provisional certificate of registry (this fee to be exclusive of fees on declarations)	5	00
4. For recording a mortgage of a ship, or shares in a ship, made under a certificate of mortgage	5	00
5. For recording the transfer of a mortgage of a ship, or shares in a ship, made under a certificate of mortgage	5	00
6. For recording the discharge of a mortgage of a ship, or shares in a ship, made under a certificate of mortgage	5	00
7. For every sale of a ship, or shares in a ship, made before a Consular Officer under a certificate of sale	5	00

	Dol.	c.
8. For inspection of the register book of transactions in ships, kept in pursuance of the Merchant Shipping Acts	1	00
9. For certified copy of extract from register book of transactions in ships	0	75
10. For every seaman engaged before a Consular Officer	0	50
11. For every alteration in agreements with seamen made before a Consular Officer	0	50
12. For every seaman discharged or left behind with the sanction of the Consular Officer	0	50
13. For every desertion certified by a Consular Officer	0	50
14. For attesting a seaman's will (*see* No. 100)	0	50
15. For examination of provisions or water, to be paid by the party who proves to be in default, in addition to costs of survey	3	00
16. For every salvage bond made in pursuance of Section 488 of "The Merchant Shipping Act, 1854," to be paid by the master or owner of the property salved	12	00
17. For making indorsement on ship's papers, as required by Section 279 of "The Merchant Shipping Act, 1854" .. .. (To include the fee for inspection of ship's papers. *See* No. 43.)	0	75

Marriage Fees to be taken by Marriage Officers acting under "The Foreign Marriage Act, 1892," and "The Foreign Marriages Order in Council, 1892."

	Dol.	c.
18. For receiving notice of an intended marriage	3	00
19. For receiving notice of a caveat	6	00
20. For every marriage solemnised by or in the presence of a Marriage Officer, and registered by him	3	00
21. For certificate by Marriage Officer of notice having been given and posted up (Article 6 of "The Foreign Marriages Order in Council, 1892")	1	50
22. For attendance by Consular Officer at a marriage solemnised in accordance with the local law, and his registration of the marriage (*see* Article 8 of "The Foreign Marriages Order in Council, 1892") ..	6	00

Part II.

Fees to be taken in respect of Matters in which the Interposition of a Consular Officer is to be given when required by the Parties interested.

Matter in respect of which the Fee is to be Taken.

	Dol.	c.
23. For noting a marine protest and furnishing one certified copy if required	2	00
24. For filing a request for survey and issuing order of survey	3	00
25. For receiving report of survey, filing original in archives, if not exceeding 200 words, and furnishing, if required, one certified copy of request, order, and report of survey	6	00
26. For extending marine protest, if not exceeding 200 words, filing original and furnishing one certified copy, if required. This to be exclusive of fee for oaths or declarations (*see* No. 48), or for drawing, if required, the body of the protest (*see* No. 94)	6	00
27. For any other protest, if not exceeding 200 words, filing original, and furnishing one certified copy if required. This is to be exclusive of fee for drawing, if required, the body of the protest (*see* No. 94)	6	00
28. If the protest or report of survey exceed 200 words, for every additional 100 words or fraction thereof	0	75
29. For attesting average, bottomry or arbitration bond, each copy (*see* No. 93)	1	50
30. For preparing a fresh agreement with the crew of a British vessel on new Articles of Agreement being opened at a foreign port, and for furnishing the copy which the Merchant Shipping Acts require should be made accessible to the crew	3	00

		Dol.	c.
31.	Bill of health	3	00
32.	Certifying to a foreign bill of health	3	00
33.	Certificate of origin of goods and filing copy	3	00
34.	Certificate of due landing of goods exported from a British port	3	00
35.	For application addressed to local authorities for arrest or imprisonment of a seaman, if granted pursuant to the request of the master	1	50
36.	Ditto, for release of a seaman	1	50
37.	For each certificate granted as to the number of the crew of a vessel, or as to any other matter required by local authorities for the clearance inwards and outwards of a vessel (*see* No. 38)	1	50
38.	For drawing up, in form and language required by local authorities, a muster-roll, or detailed list, giving the names, &c., of each member of the crew of a vessel (to be charged in addition to No. 37)	0	75
39.	For affixing Consular signature, and seal if required, to a ship's manifest	3	00
40.	For affixing Consular seal or signature to any entry in the official log-book of a British vessel, if not required by the Merchant Shipping Acts	1	50
41.	For attesting the execution of a bill of sale of a ship, or shares in a ship	1	50
42.	For any document required from a Consular Officer by foreign authorities as a preliminary to the engagement of a British seaman in a foreign vessel, including official seal and signature	0	50
43.	For inspecting ship's papers when their production is required to enable a Consular Officer to perform any specific service on the ship's behalf N.B.—This fee not to be charged when Fee No. 17 is leviable	0	75
44.	For granting any certificate not otherwise provided for, if not exceeding 100 words	1	50
45.	If exceeding 100 words, for every additional 100 or fraction thereof	1	50
46.	For noting a bill of exchange	2	00
47.	For protest of a bill of exchange and copy	6	00
48.	For administering an oath, or receiving a declaration or affirmation without attestation of signature	0	75
49.	For administering an oath, or receiving a declaration or affirmation with attestation of signature	1	50
50.	For each Consular signature attached to an exhibit referred to in an affidavit or declaration	0	75
51.	For each alteration or interlineation initialled by a Consular Officer in any document not prepared by him	0	25
52.	For each signature to a transfer of shares or stock attested by a Consular Officer	0	75
53.	For each signature to a transfer of shares or stock attested by a Consular officer when executed in the presence of one or more witnesses besides the Consular Officer	1	50
54.	For each execution of a power of attorney attested by a Consular Officer (*see* No 102) N.B When more than four persons execute a power at the same time, a fee of 8 dollars only is to be charged.	2	00
55.	For attesting the execution of a will of any person not being a British seaman (*see* No 100)	3	00
56.	For each execution of a deed, bond, or conveyance under seal, attested by a Consular Officer N B When more than four persons execute an instrument at the same time, a fee of 8 dollars only is to be charged.	2	00
57.	For each signature to an application for a patent attested by the Consul	1	50
58.	For attaching Consular signature and seal if required, to quarterly or monthly declarations for Government pay, half-pay, or pension	0	50
59	For attaching Consular signature to any other declaration of existence	0	75
60	Ditto, if drawn up by a Consular Officer	1	50
61	For certificate of a person's identity	3	00

	Dol.	c.
62. For attesting the signature of a foreign authority	1	50
63. For each signature attested by a Consular Officer in any document not otherwise provided for	1	50
N.B.—No fee is to be charged for attesting a signature to any document required for the deposit or withdrawal of money in or from the Post Office Savings Bank.		
64. For receiving and giving a receipt for any document, packet, or article deposited in the Consulate under the conditions of fee No. 108 ..	1	50
65. For registration of a birth or death (except the death of a seaman)	0	75
66. For any registration not otherwise provided for	1	00
N.B.—No fee is to be charged for the registration of a British subject at a Consular Office, where such registration is not compulsory under Order in Council.*		
67. For issue of certificate of British registration, when such registration is not compulsory under Order in Council	1	00
68. For each search in the register books of births, marriages, or deaths, kept at the Consulate	0	75
69. For furnishing a certified copy of an entry in register books of births, marriages, or deaths (*see* No. 68)	0	75
70. For certifying to a copy of any document, or part of a document, if not exceeding 100 words	1	50
71. If exceeding 100 words, for every additional 100 words, or fraction thereof	1	50
N.B.—An additional fee is to be charged when the copy is made by the Consular Officer (*see* No. 97).		
72. Passport	1	50
73. Visa of a passport	0	75
74. For issue of certificate of nationality	1	00
75. Request to local authorities for a passport, pass, or visa	0	75
75A. Request to central authorities for a passport, pass, or visa	2	00
75B. For transit pass†	2	50
76. Opening the will of a British subject, not being a seaman, including Consular signature to minute of proceedings	6	00
77. For the administration and distribution, or for either administration or distribution, of the property, situate in the country of the Consular Officer's residence, of a British subject, not being a seaman, dying intestate, or if not intestate, when undertaken in the absence of legally competent representatives of the deceased ..	2½ per cent. on gross value.	
78. For uniting documents and attaching Consular seal to the fastening..	0	75
79. For directing search for, or obtaining from Public Record Office or elsewhere, extracts from local registers, or copies of wills, deeds, or other matters, in addition to expenses incurred and any fees for attestation	1	50
80. For affixing Consular signature, and seal if required, to any document not otherwise provided for by this Table	1	50
N.B.—No charge is to be made for an order or letter sending a seaman to hospital.		
81. For each Consular seal affixed to a document, packet, or article, when no signature is required	0	75
81A. For new title-deeds of land, including registration	10	00
81B. For notifying to authorities loss of owner's copy of title-deed, and requesting issue of copy to replace it	5	00
81C. For transfer of land	5	00
81D. For cancelment of title-deeds	5	00
81E. For registration of title-deeds issued by local authorities	5	00
81F. For registration or discharge of mortgage	5	00
81G. For registration of foreclosure of mortgage	10	00
81H. For any entry, not otherwise provided for, made in land register at the request of the parties interested	1	50
81I. For reference to land, mortgage, or other registers (except those under Nos. 8 and 68)	1	0

* Registration fee, two dollars. See Instructions, 12th September, 1893. H. T. Vol. 9. Page 160.

† 27th September, 1894.

Part III.

Fees to be taken for certain Attendances, in addition to any other Fee chargeable under the present Table, and to Travelling and other Expenses (see Notes 3 and 4).

Attendance in respect of which the Fee is to be Taken.	Dol.	c.
82. At a shipwreck, or for the purpose of assisting a ship in distress, per day	12	00
83. At a shipwreck, at request of parties interested, to assist or advise as to salvage, per day	18	00
84. At request of parties interested, or of local authorities, at the affixing or removing of seals on property of deceased persons, if absent less than two hours	6	00
85. Ditto, ditto, for each additional hour, or fraction thereof, 3 dollars, with a maximum per day of	24	00
86. At request of parties interested or of local authorities, at a valuation, if absent less than two hours	6	00
87. Ditto, ditto, for each additional hour, or fraction thereof, 3 dollars, with a maximum per day of	24	00
88. At request of parties interested, or of local authorities, at a sale, if absent less than two hours	12	00
89. Ditto, ditto, for each additional hour, or fraction thereof, 3 dollars, with a maximum per day of	24	00
90. At request of parties interested, or of local authorities, for the transaction elsewhere than at the Consular Office of any of the duties for which a fee is provided in the Table of Consular Fees, for each hour, or fraction thereof, 3 dollars, with a maximum per day of ..	24	00
90A. At request of parties interested, or of local authorities, at a measurement of land, for each hour, or fraction thereof, 3 dollars, with a minimum of	6	00
91. At the request of parties interested, for the transaction of any duty for which a fee is leviable under this Order, whether at the Consular Office or at the Consular Officer's residence, in addition to such fee, for each half hour, or fraction thereof, if in the daytime, that is to say, between the hours of 6 A.M. and 9 P.M., but not during the customary business hours of the place	1	25

Part IV.

Fees to be taken in respect of certain other Services which may be rendered by a Consular Officer, at his discretion, at the request of Parties interested.

Service in respect of which the Fee is to be Taken.	Dol.	c.
92. For the transaction of any duty for which a fee is leviable under this Order, whether at the Consular Office or at the Consular Officer's residence, in addition to such fee, for each half hour, or fraction thereof, if in the night-time, that is to say, between the hours of 9 P.M. and 6 A.M.	2	50
93. For preparing average, bottomry, or arbitration bond (*see* No. 39) ..	6	00
94. For drawing a declaration or other document, or the body of a protest, or for taking down in writing verbal declarations or depositions of persons made before a Consular Officer, or for reducing into writing agreements made before him by contracting parties, exclusive of fees for attestation, &c. (*see* Part II.), if not exceeding 100 words..	1	50
95. If exceeding that number, for each subsequent 100 words, or fraction thereof	0	75
96. For engrossing or drawing up petitions, applications, or other documents not specified, each	1	50
97. For making a copy of a document, if not exceeding 100 words, exclusive of fee for certificate (*see* No. 70)	0	75

		Dol.	c.
98.	If exceeding that number, for every subsequent 100 words, or fraction thereof	0	75
	N.B.—If the copy is in any foreign language double the above fees are to be charged.		
99.	For making or verifying a translation of a document, for every 100 words, or fraction thereof, exclusive of fee for certificate (*see* No. 44)	1	50
100.	For drawing a will, if not exceeding 200 words (*see* Nos. 14 and 55).	6	00
101.	If exceeding that number, for every subsequent 100 words, or fraction thereof	1	50
102.	For drawing a power of attorney (*see* No. 54)..	3	00
103.	In cases where one or more attesting witnesses, besides a Consular Officer, are required, for each witness supplied by him at the request of the parties interested	0	75
	N.B.—As to the following fees (104 *to* 110) *the discretionary Services for which they are chargeable are not to be undertaken except at the sole risk and responsibility of the Parties requesting the same, and* (*except as regards Fees* 104 *and* 110) *on condition of such Parties signing the proper Declaration in the Form* (*A, B, or C, as the case may be*) *hereto annexed.*		
104.	On sums advanced by a Consular Officer at the request, and on behalf, of private persons, a commission of	5 per cent.	
105.	Attendance out of Consular Office, at the request, and on behalf, of private persons, for the transaction of business which a Consular Officer is permitted, but is not bound, to undertake under the Consular Regulations, for each hour, or fraction thereof, 3 dollars, with a maximum per day of (*see* Notes 3 and 4 and Form A)	24	00
106.	On sums remitted, or paid, to a Consular Officer by private persons to be expended, or handed over, in accordance with their instructions, a commission of (*see* Form B)	5 per cent.	
	N.B.—Fee No. 106 is not to be charged on sums received for charitable persons, or for the pecuniary relief or repatriation of British subjects in difficulty or distress.		
107.	On sums recovered by a Consular Officer at the request, and on behalf, of private persons, a commission of	5 per cent.	
108.	On deposits of money or valuables, a commission of	5 per cent.	
	N.B.—The deposit not to be accepted until the Consular Officer holds an acknowledgment in the Form (C) hereto annexed, duly signed by or on behalf of the depositor. The Consular Officer shall give a deposit receipt therefore in the Form (D), hereto annexed.		
	In the case of valuables the fee is to be calculated upon an estimate of their value, which must be given by the depositor when making the deposit.		
109.	For the administration and distribution of the property, situate in the country of the Consular Officer's residence, of a deceased British subject, not being a seaman, when undertaken in cases of difficulty, and upon the written request of the legally competent representatives of such deceased person, who shall at the same time declare in writing (in the Form (B) hereto annexed) that they are aware of the fee chargeable for such service, and agree to pay the same	2½ per cent. on gross value.	
110.	In cases where a Consular Officer acts as Arbitrator, provided the parties interested declare in writing in the reference to arbitration that they are aware of the nature and rate of the fee chargeable for such service, and agree to pay the same, a commission on the value of the property or amount in dispute of 2½ per cent., with a minimum of	12	00
	N.B.—The value of the property or amount in dispute must be ascertained and agreed by the parties to the arbitration, and stated in the reference to arbitration.		

NOTES.

1. If a Consular Officer should be named Commissioner to examine witnesses under a Commission issued by a British Court of Justice he is allowed to act as such, charging and retaining the customary fees for so doing.

2. No fee is to be charged for drafting or receiving depositions, &c., taken *ex officio* under the Merchant Shipping Acts, except in cases specially provided for.

3. In cases of attendances (Parts III and IV), the fee per day is to cover a period not exceeding 12 hours.

4. In cases of attendances (Parts III and IV), if the Consular Officer finds it necessary to be accompanied by a clerk the fee will be increased by one-half, or if a clerk only is sent, half the fees are to be charged.

FORM (A).

This is to certify that in consideration of having undertaken, at my request and on my behalf, to transact certain business which a Consular Officer is permitted, but is not bound, to undertake under the Consular Regulations, I have agreed to pay him, on behalf of Her Majesty's Government, therefore the fee in such case provided by "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," section 105 of Table (viz., for each hour, or fraction thereof, of attendance, 3 dollars, with a maximum per day of 24 dollars), in addition to any other fee properly chargeable under that Order in Council, and to travelling and other expenses.

Dated at , the day of , 18 .

FORM (B).

In consideration of Her Majesty's Consul (*or, as the case may be*) at having consented to transact business on my account, for which Fee No. is provided in Part IV of "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," I hereby undertake to pay the fee as therein specified, together with all reasonable expenses incurred by him, and I declare that no liability whatever shall attach to Her Majesty's Government for the acts of the said Consular Officer in respect of the said transaction.

Dated at , the day of , 18 .

FORM (C).

I hereby request that [the sum of] [a packet (or packets, *specifying number, &c.*), purporting to contain of the value of], may be accepted for deposit in the British [Vice] Consulate [General] at for a period not exceeding ; and I agree that this deposit shall not be delivered up, except on the production of the Consular Officer's receipt duly signed by , and that neither Her Majesty's Government nor the British Consular Officer or Officers give any guarantee for its safe custody, nor incur any liability in case of its loss, damage, or destruction by fire, theft, or otherwise.

Dated at , the day of , 18 .

FORM (D).

This is to certify that has this day delivered to me [the sum of] [a packet (or packets, *specifying number, &c.*), purporting to contain valued at], to be deposited for a period not exceeding in this Consulate, to be returned on the production of this receipt, and that he [or she] has paid me, on behalf of Her Majesty's Government, the sum of , being 5 per cent. on the value of such deposit; and has also, under section 64 of the Table annexed to "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," paid me the further sum of 1 dollar 50 cents for this receipt, for which amounts fee stamps are hereto affixed.

The deposit is accepted on the distinct condition that neither Her Majesty's

Government nor the British Consular Officer or Officers give any guarantee for its safe custody, nor incur any liability in case of its loss, damage, or destruction by fire, theft, or otherwise.

British [Vice] Consulate [General], this day of , 18 .

Consul.

Consular Fee Stamp, cancelled by Official Stamp.

(No. 91.) *LAND REGULATIONS of British Concession. Hankow. London, 5th May,* 1893.

UNDER and in pursuance of the provisions of "The China and Japan Order in Council, 1865," and of "The China and Japan Order in Council, 1881," Her Majesty the Queen has been graciously pleased to approve the "'Land Regulations of the British Concession, Hankow, 1874," as hereby amended, of which a copy is annexed hereto.

ROSEBERY,
Her Majesty's Principal Secretary of State for Foreign Affairs.

Foreign Office, London,
5th May, 1893.

Land Regulations of the British Concession, Hankow, 1874, *as amended in* 1893.

Boundaries.

I. That the limits wherein these Regulations are binding be the British Concession, Hankow.

Roads and Jetties, Assessment on Land and Houses, Rates, Dues, and Taxes.

II. In order that due provision should be made for the better order and good government of the Settlement, and also proper

NOTES.

1. If a Consular Officer should be named Commissioner to examine witnesses under a Commission issued by a British Court of Justice he is allowed to act as such, charging and retaining the customary fees for so doing.

2. No fee is to be charged for drafting or receiving depositions, &c., taken *ex officio* under the Merchant Shipping Acts, except in cases specially provided for.

3. In cases of attendances (Parts III and IV), the fee per day is to cover a period not exceeding 12 hours.

4. In cases of attendances (Parts III and IV), if the Consular Officer finds it necessary to be accompanied by a clerk the fee will be increased by one-half, or if a clerk only is sent, half the fees are to be charged.

FORM (A).

This is to certify that in consideration of having undertaken, at my request and on my behalf, to transact certain business which a Consular Officer is permitted, but is not bound, to undertake under the Consular Regulations, I have agreed to pay him, on behalf of Her Majesty's Government, therefore the fee in such case provided by "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," section 105 of Table (viz., for each hour, or fraction thereof, of attendance, 3 dollars, with a maximum per day of 24 dollars), in addition to any other fee properly chargeable under that Order in Council, and to travelling and other expenses.

Dated at , the day of , 18 .

FORM (B).

In consideration of Her Majesty's Consul (*or, as the case may be*) at having consented to transact business on my account, for which Fee No. is provided in Part IV of "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," I hereby undertake to pay the fee as therein specified, together with all reasonable expenses incurred by him, and I declare that no liability whatever shall attach to Her Majesty's Government for the acts of the said Consular Officer in respect of the said transaction.

Dated at , the day of , 18 .

FORM (C).

I hereby request that [the sum of] [a packet (or packets, *specifying number*, &c.), purporting to contain of the value of , may be accepted for deposit in the British [Vice] Consulate [General] at for a period not exceeding ; and I agree that this deposit shall not be delivered up, except on the production of the Consular Officer's receipt duly signed by , and that neither Her Majesty's Government nor the British Consular Officer or Officers give any guarantee for its safe custody, nor incur any liability in case of its loss, damage, or destruction by fire, theft, or otherwise.

Dated at , the day of , 18 .

FORM (D).

This is to certify that has this day delivered to me [the sum of] [a packet (or packets, *specifying number*, &c.), purporting to contain valued at], to be deposited for a period not exceeding in this Consulate, to be returned on the production of this receipt, and that he [or she] has paid me, on behalf of Her Majesty's Government, the sum of , being 5 per cent. on the value of such deposit; and has also, under section 64 of the Table annexed to "The Consular Fees (China, Japan, and Corea) Order in Council, 1892," paid me the further sum of 1 dollar 50 cents for this receipt, for which amounts fee stamps are hereto affixed.

The deposit is accepted on the distinct condition that neither Her Majesty's

Government nor the British Consular Officer or Officers give any guarantee for its safe custody, nor incur any liability in case of its loss, damage, or destruction by fire, theft, or otherwise.

British [Vice] Consulate [General], this day of , 18 .

Consul.

Consular Fee Stamp, cancelled by Official Stamp.

(No. 91.) *LAND REGULATIONS of British Concession. Hankow. London, 5th May,* 1893.

UNDER and in pursuance of the provisions of "The China and Japan Order in Council, 1865," and of "The China and Japan Order in Council, 1881," Her Majesty the Queen has been graciously pleased to approve the "Land Regulations of the British Concession, Hankow, 1874," as hereby amended, of which a copy is annexed hereto.

ROSEBERY,
Her Majesty's Principal Secretary of State for Foreign Affairs.

Foreign Office, London,
5th May, 1893.

Land Regulations of the British Concession, Hankow, 1874, *as amended in* 1893.

Boundaries.

I. That the limits wherein these Regulations are binding be the British Concession, Hankow.

Roads and Jetties, Assessment on Land and Houses, Rates, Dues, and Taxes.

II. In order that due provision should be made for the better order and good government of the Settlement, and also proper

arrangements for the making of roads, building public jetties and offices, and keeping them in repair, and for cleansing, lighting, watering, and draining the Settlement generally, and establishing a watch or police force therein, paying the persons necessarily employed in any municipal office or capacity, for raising money by way of loan for any of the purposes aforesaid,

Her Britannic Majesty's Consul to Convene a Meeting of Renters and other Persons entitled to Vote. Rates and Taxes.

Her Britannic Majesty's Consul shall, as soon after the 1st day of January in each year, or when it may appear to him needful, or on the requisition of seven duly qualified renters of land or others entitled to vote on the terms hereinafter mentioned, convene a meeting of such persons to devise ways and means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said persons, or a majority of them in public meeting duly assembled, to declare an assessment in the form of a rate to be made on the said land or buildings, and it shall also be competent for the said persons, or a majority of them as aforesaid, to impose other rates and taxes for the purposes aforesaid in the form of dues on all goods, merchandize, and treasure landed in, shipped from, or passing through the British Concession.

Land-renters and others to Appoint a Committee or Council. Rates and Taxes.

III. And be it further ordered that the said land-renters and others as aforesaid, in public meeting duly assembled, under and in accordance with the provisions of the preceding Article, shall appoint, in the mode hereinafter provided, an Executive Committee or Council, to consist of not more than four persons, for the purpose of levying the rates, dues, and taxes hereinbefore mentioned, and applying the funds realized from the same for the purposes aforesaid, and for carrying out the Regulations now made; and such committee when appointed shall have full power and authority to levy and apply such rates, dues, and taxes for the purposes aforesaid, and shall have power and authority to sue for all arrears of such rates, dues, and taxes, and recover the same from all defaulters in the Court under whose jurisdiction such defaulter may be.

Qualification of Voters.

IV. That at all meetings the following persons shall alone be entitled to vote, namely, duly registered renters of one undivided Concession lot; recognised agents in the actual employment of firms, or persons who are duly registered renters as above; householders whose residences are in the Concession or bordering upon its limits, and whose annual payment of taxes or contributions

amounts to 10 taels and upwards; and persons holding written authority to act for qualified voters absent from such meetings. It is understood that a person shall be entitled to one vote for each undivided Concession lot which he may hold, and also, if duly qualified to vote as a householder, to a vote in that capacity in addition to his vote as a land-renter.

Election of Council.

V. That on or before the 5th day of January in each year it shall be competent for any two persons entitled to vote as above to nominate any duly qualified person or persons, not exceeding four, for election as members of the Council; and all such nominations shall be sent in writing to Her Britannic Majesty's Consul with the signatures of the proposer and seconder, and also the written assent to serve of the candidate or candidates proposed. The names of all the persons proposed shall then be exhibited in the Consulate Office until the 12th January, and, on the day appointed for election, should the numbers proposed exceed the required number, the election shall be by ballot, but should not more than four persons be proposed, then they shall be declared duly elected.

Qualification for Members of Municipal Council.

VI. All persons entitled to vote under Regulation IV shall be qualified to be members of the Municipal Council.

Tenure of Office.

VII. The Council shall enter upon their office as soon after the accounts of the retiring committee shall have been passed at the annual meeting in January, and at their first meeting the new Council shall elect a chairman, secretary, and treasurer. In the temporary absence of the chairman, the members present at any meeting of the Council shall elect their chairman for such meeting.

Officers.

VIII. The Council may from time to time appoint such officers and servants as they think necessary for carrying out these Regulations, and fix the salaries, wages, and allowances of such officers and servants, and may pay the same out of the municipal funds, and make bye-laws for the government of such officers and servants, and may discontinue or remove any of them, from time to time, as they shall think fit.

Committee or Council to have Power to make Bye-laws.

IX. When in pursuance of these Regulations the above-mentioned Committee or Council shall be duly elected, all the power,

authority, and control conferred by the bye-laws now sanctioned and annexed to these Regulations, and all the rights and property which by such bye-laws are declared to belong to any Committee or Council as aforesaid shall vest in and absolutely belong to such Committee or Council and to their successors in office, and such successors as are duly elected and such Committee shall have power and authority from time to time to make other bye-laws for the better enabling them to carry out the object of these Regulations, and to repeal, alter, or amend any such bye-laws, provided such other bye-laws be not repugnant to the provisions of these Regulations, and be duly confirmed and published; and provided also that no bye-law made by the Committee under the authority of these Regulations, except such as relate solely to their Council or their officers or servants, shall come into operation until passed and approved by Her Britannic Majesty's Consul and Minister and the ratepayers in special meeting assembled, of which meeting and the object of it ten days' notice shall be given.

Funds.

X. The Council shall administer the municipal funds only for the public use and benefit at their discretion, and in accordance with any resolutions carried at any general meeting of land-renters and ratepayers, and a statement shall be drawn up by them at the end of each year for which the Council has been elected, showing the nature and amount of the receipts and disbursements of the municipal fund for that year, and the said statement shall be published for general information at least seven days before the general meeting is convened.

How Accounts to be Audited.

XI. And whereas it is also expedient that due provision should be made for the auditing of the accounts of the said Committee or Council, and for the obtaining the approval and sanction of them by the ratepayers in public meeting duly assembled, be it ordered that an auditor shall be appointed by the Council to audit their accounts, and that the accounts so audited shall be published seven days before the annual meeting.

Vacancies in Council.

XII. In case of a vacancy or vacancies occurring in the Committee or Council during the municipal year, Her Britannic Majesty's Consul shall, if requested to do so, convene a meeting for the purpose of filling up such vacancy or vacancies.

Her Britannic Majesty's Consul may at any time call Meeting of Landrenters.

XIII. Be it further ordered that it shall be competent for Her Britannic Majesty's Consul, at any time when it may appear to him needful, or at the requisition of seven renters of land duly qualified to vote, or others entitled to vote on the terms previously mentioned, five of whom must be resident within the British Concession, to call a public meeting, giving ten days' notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the Municipality. All resolutions passed by a majority at any such public meeting, on all such matters aforesaid, shall be valid and binding on the whole of the ratepayers, provided not less than two-thirds of the whole body of those entitled to vote be represented at the meeting. At such meeting Her Britannic Majesty's Consul shall take the chair; and, in his absence, then such ratepayer as the majority of voters present may nominate, who shall report to Her Britannic Majesty's Consul the resolutions passed at such meeting for his concurrence and approval; and, unless such approval be officially given, such resolutions shall not be valid and binding. Provided always that a term of ten days shall elapse between the date of the resolution and the signification of approval of Her Britannic Majesty's Consul. In all cases in which the ratepayers in public meeting assembled, herein provided, decide upon any matter of a municipal nature not already enumerated, and affecting the general interests, any person considering himself prejudiced in property or interests by the resolution may, within the period of ten days aforesaid, represent his case to Her Britannic Majesty's Consul for his consideration. After the expiration of the term of ten days the Consular approval, if signified, shall be binding.

Transfer of Lots to be Registered.

XIV. All transfers of lots or portions of lots in the British Concession shall be made by the parties to the transfer or their duly authorised representatives in the presence of an officer of Her Britannic Majesty's Consulate, Hankow, and shall be registered at the said Consulate.

List of Voters.

XV. Ten days previous to the annual and all other general meetings, a list of landrenters to whom land has been transferred and registered, as before provided, shall be communicated by the Consul to the Municipal Council. The Council shall thereupon cause a list to be made of all persons entitled to vote, and of the number of votes to which each may be entitled, which list shall be exhibited in the British Consulate office at least seven days before the meeting. Corrections of the list may be made up to

within 48 hours of the time of holding the meeting on proof of error or omission being given to the satisfaction of the Consul. Votes shall only be allowed in accordance with the list so corrected.

Proxies shall be lodged with the Consul at least 24 hours before the meeting.

How Penalties, Licences, &c., under the Bye-laws are to be recovered.

XVI. Be it also further ordered, that any penalty, or forfeiture, or fees on licences provided for in the bye-laws framed under the authority of these regulations, and imposed in pursuance of such bye-laws, may be recovered by summary proceedings before the proper authority, and it shall be lawful for such authority upon conviction to adjudge the offender to pay the penalty or incur the forfeiture as well as the costs attending the conviction, as such authority may think fit. All fines and penalties levied under these regulations and the bye-laws framed and to be framed under them, shall be carried to the credit of the Committee or Council in diminution of the general expenditure authorized by the provisions of these regulations.

Persons acting in Execution of these Regulations not to be personally liable.

XVII. No matter or thing done, or contract entered into, by the Council, nor any matter or thing done by any member thereof, or person whomsoever, acting under the orders of the Council, shall, if the matter or thing were done, or the contract entered into *bonâ fide* for the purpose of executing these regulations, subject them or any of them personally to any action, liability, claim, or demand whatsoever. And any expense properly and with due authority incurred by the Council, or those acting directly under and in accordance with their orders, shall be borne and repaid out of rates levied under the authority of these regulations.

How Council to be sued.

XVIII. The Committee shall be liable to be sued, through their Secretary, in Her Britannic Majesty's Consular Court at Hankow, by any person who may deem himself injured by any act of the Committee or its officers, and should the plaintiff obtain damages in any such suit, the said damages and the costs of such suit shall be summarily recoverable by Her Britannic Majesty's Consul, and paid out of the funds levied under the authority of these local regulations.

Bye-laws annexed to the Land Regulations for the Foreign Settlement, Hankow.

Control and Management of Sewers and Drains.

1. The entire control and management of all public sewers and drains within the limits of these Regulations, and all sewers and drains in and under the roads, and all the works and materials thereunto belonging, whether made at the time of the passing of these Regulations or at any time thereafter, and whether made at the cost of the Council or otherwise, shall vest in and belong to the Council.

No Person to build over any Public Sewer without Consent of Council.

2. No sewer or drain shall be made, or any building be erected, over any sewer belonging to the Council, neither shall any branch drain be carried into any of the sewers or drains above vested in the Council without the consent of the Council first obtained in writing. And if, after the passing of the Land Regulations, any sewer or drain be made, or any building be erected, contrary to the provisions herein contained, the Council may demolish the same, and the expenses incurred thereby shall be paid by the person so offending, and shall be recoverable as damages.

Sewers and Drains to be provided with Traps.

3. All sewers and drains within the limits of these Regulations, whether public or private, shall be provided by the Council, or other persons, to whom they severally belong, with proper traps or other coverings, or means of ventilation, so as to prevent stench.

Expenses of Maintaining and Cleansing all Sewers and Drains.

4. The expense of maintaining and cleansing all sewers not hereinbefore provided for shall be defrayed out of the rates and taxes, to be levied under Article I of the Land Regulations.

No one to build a House until a Covered Drain be constructed.

5. It shall not be lawful to erect any house in the Settlement, or to rebuild any house in the Settlement, without at the same time constructing a covered drain or drains of such size and materials, and at such level, and with such fall as to the Council shall appear necessary and sufficient for the proper and effectual drainage of the same and its appurtenances, in terms of Bye-laws Nos. 1 and 2; the drain or drains so to be constructed shall communicate with such sewers as the Council may direct. And whosoever

erects or rebuilds any house or other building, or constructs any drains contrary to this bye-law, shall be liable for every such offence to a penalty not exceeding 250 taels.

Council shall be Surveyors of Highways.

6. The Council, and none other, shall be surveyors of all highways within the limits of the aforesaid Regulations, and within those limits shall have all such powers and authorities as any surveyors of highways are invested with in England.

Management of Streets and Repairs thereof to vest in Council; also Bunding and Jetties.

7. The management of the streets, bunding, and jetties, and the laying out and repairing thereof, shall be vested in the Council; and all materials, implements, and other things provided for laying out and repairing said streets, bunding, and jetties shall belong to the Council.

Council may stop up any Street and prevent all Persons from passing

8. The Council may stop up any streets, and prevent all persons from passing along and using the same during the construction, alteration, repair, or demolition of any sewer or drain in or under such street.

Penalty on making unauthorized Alterations in Streets.

9. Every person who wilfully displaces, takes up, or makes any alteration in the pavement, flags, or other materials of any street, bunding or jetties under the management of the Council, without their consent in writing, shall be liable to a penalty not exceeding 25 taels.

Penalty for not Lighting Deposits of Building Materials or Excavations.

10. When any building materials or other things are laid, or any hole made in any of the streets, whether the same be done by order of the Council or not, the person or persons causing such hole to be made shall, at his own expense, cause a sufficient light to be fixed in a proper place on and near the same, and continue such light every night from sun-setting to sun-rising while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things and such hole to be sufficiently fenced and inclosed until such materials or other things are removed, or the holes filled up, or otherwise made secure. And every such person who fails so to light, fence, or inclose the

same, shall for every such offence be liable to a penalty not exceeding 25 taels.

Dangerous Places to be repaired or inclosed.

11. If any building, wall, or hole, or other place near any street be, for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the owner shall repair the same, or, in default, the Council shall cause the necessary repairs to be made, and the expenses of the same shall be recoverable as damages from the owner. If the owner cannot be found, or any agent who will undertake to act for him, within the limits of these Regulations, the Council, after giving 28 days' notice of their intention to do so, by posting a printed or written notice in a conspicuous place in such building, or on the land on which such building stood, or other place, may take such building or land and sell the same by public action under Consular injunction, and from and out of the proceeds of such sale reimburse themselves for the outlay incurred, and shall restore any overplus arising from such sale to the owner of such property on demand; but should the proceeds of such sale not cover the expenses incurred, the Council shall have the same remedies for compelling the payment of the balance as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Projections of Houses to be removed on notice.

12. The Council may give notice to the owner or occupant of any house or other building to remove or alter any porch, shed, projecting window, step, or any other obstruction or projection, erected or placed against, or in front of, any house or other building, within the limits of these Regulations, and which is an obstruction to the safe and convenient passage along any street; and such owner and occupant shall, within 14 days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the Council, and in default thereof shall be liable to a penalty not exceeding 10 taels; and the Council in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the owner or occupant so making default, and shall be recoverable as damages.

Obstruction of Streets.

13. No person shall obstruct the public roads or footpaths with any kind of goods or building materials under a penalty of 10 taels for every 24 hours of continued obstruction; and after the first 24 hours that notice of removal shall have been given to the owner of the same, or the person using, employing, or having control of the same, or in the absence of any such person, or

PART IV.

APPENDIX.

[ARRANGED IN ORDER OF DATE.]

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(App. 1.)—*ACT of the British Parliament "for the Regulation of Chinese Passenger Ships."*•

[18 & 19 Vict., cap. 104.] [14*th August*, 1855.]

WHEREAS abuses have occurred in conveying emigrants from ports in the Chinese seas: And whereas it is expedient to prevent such abuses: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

I. In the construction of this Act the term "Chinese passenger ship" shall include every ship carrying from any port in Hong Kong, and every British ship carrying from any port in China or within 100 miles of the coast thereof, more than 20 passengers, being natives of Asia; the word "colony" shall include all Her Majesty's possessions abroad not being under the Government of the East India Company; the word "governor" shall signify the person for the time being lawfully administering the government of such colony; the term "legislature of Hong Kong" shall signify the governor and legislative council or other legislative authority of the same for the time being; the word "ship" shall include all sea-going vessels; the terms "commander" and "master" of any ship shall include any person for the time being in command or charge of the same; the term "emigration officer" shall include every person lawfully acting as emigration officer, immigration agent, or protector of emigrants, and every person authorized by the Governor of any British colony to carry out the provisions of this Act; and the term "British Consul" shall include every person lawfully exercising consular authority on behalf of Her Majesty in any foreign port.

II. It shall be lawful for the Legislature of Hong Kong, by any Ordinance to be by them enacted for that purpose, to make regulations respecting Chinese passenger ships, and, in the case of British ships, respecting the treatment of the passengers therein while at sea, and until such enactment the regulations contained in Schedule (A) to this Act annexed shall be in force: Provided always, that no such Ordinance shall come into operation until Her Majesty's confirmation of the same shall have been proclaimed in Hong Kong by the Governor thereof.

III. It shall be lawful for the Governor of Hong Kong to declare, by Proclamation, for the purposes of this Act and of the said regulations, what shall be deemed to be the duration of the voyage of any Chinese passenger ship, and by such Proclamation to alter the scales of dietary, medicines, and medical comforts contained in the aforesaid Schedule (A).

IV. No Chinese passenger ship shall clear out or proceed to sea on any voyage of more than seven days' duration until the master thereof shall have received from an emigration officer a

• In use at Amoy, Swatow, Kiungchow, and other Chinese Treaty Ports (1896).

copy of the aforesaid regulations, and a certificate in the form contained in Schedule (B) to this Act annexed, or in such other form as may be prescribed by the said Legislature, which copy and certificate, with any documents to be attached thereto (hereinafter designated as emigration papers), shall be signed by the said emigration officer, nor until the master shall, with two sufficient sureties, to be approved by the said emigration officer, have entered into a joint and several bond in the sum of 1,000*l.* to Her Majesty, her heirs and successors, in the form contained in Schedule (C) to this Act annexed, or in such other form as shall be prescribed by the said Legislature.

V. The said penal sum of 1,000*l.* shall be due and recoverable notwithstanding any penalty or forfeiture imposed by this Act or by the aforesaid regulations, and whether such penalties or forfeitures shall have been sued for and recovered or not.

VI. It shall be lawful for the commander of any of Her Majesty's ships of war, or for any emigration officer, Custom-House officer, or British Consul, to enter and search any Chinese passenger ship (being a British vessel or within British jurisdiction) so long as such ship shall have any passengers on board, and for 48 hours afterwards, and in case such ship shall be engaged on a voyage of more than seven days' duration, to require the production of the emigration papers of such ship, and to examine all persons on board of the same, in order to ascertain whether the provisions of this Act and of the regulations aforesaid have been complied with; and any person who refuses to allow, attempts to avoid, or obstructs any such entry, search, or examination, or who knowingly misleads or deceives any person lawfully making any such search or examination, or who, being master of the ship, or having the emigration papers in his custody, fails to produce the same when required as aforesaid, shall be deemed guilty of a misdemeanour.

VII. In case of any neglect or refusal to comply with any of the provisions of this Act or any of the regulations aforesaid, or to perform any stipulation in any of the contracts made with the passengers, the master of the ship, and any other person who may have been guilty of or have aided or abetted such neglect or refusal, shall each be deemed for each offence guilty of a misdemeanour.

VIII. If any Chinese passenger ship clears out or proceeds to sea on any voyage exceeding seven days in duration without such emigration papers as aforesaid, or if the emigration papers of any Chinese passenger ship are forged or fraudulently altered, such ship shall, if she is a British ship, or if, not being a British ship, the offence is committed and the ship is seized in Her Majesty's dominions or in the territories of the East India Company, be forfeited to Her Majesty.

IX. Every person who commits or aids or abets in committing any act or default by which any Chinese passenger ship may become liable to forfeiture shall be liable to a penalty not exceeding 100*l.* for each offence.

X. It shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of Customs, or any British Consul, to seize and detain any ship which has become subject to forfeiture as aforesaid, and bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having Admiralty jurisdiction in Her Majesty's dominions or in the territories of the East India Company, and such Court may thereupon make such order in the case as it thinks fit, and may award such portion of the proceeds of the sale of any forfeited ship as it thinks right to the officer bringing in the same for adjudication, or to any persons damaged by the act or default which has rendered the ship liable to forfeiture.

XI. No such officer as aforesaid shall be responsible either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there are reasonable grounds for such seizure or detention; but if no such grounds are shown such judge or Court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as he or it thinks just.

XII. It shall be lawful for the Court before which any ship liable to forfeiture under this Act is proceeded against to impose such a pecuniary penalty as to the same Court shall seem fit, in lieu of condemning the ship, and in such case to cause the ship to be detained until the penalty is paid, and to cause any penalty so imposed to be applied in the same manner in which the proceeds of the said ship, if condemned and sold by order of the Court, would have been applicable.

XIII. All misdemeanours and other criminal offences punishable under this Act shall be dealt with, tried, and judged of in the same manner as misdemeanours and other offences punishable under the "Merchant Shipping Act, 1854," and all the rules of law, practice, or evidence applicable to the last-mentioned misdemeanours and offences shall be applicable to misdemeanours and other offences under this Act.

XIV. Any Court, justice, or magistrate imposing any penalty under this Act for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the Act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct and shall be carried to and form part of the Consolidated Fund of

the United Kingdom; and all penalties recovered in any British possession shall be paid over into the Public Treasury of such possession, and form part of the public revenue thereof.

XV. In any legal proceeding taken under this Act or in respect of the bond hereinbefore required any document purporting to be the written declaration of any British Consul, or of the Commander of any of Her Majesty's ships of war, or to be a copy of the proceedings of any court of justice, shall, without any proof of signature, be received in evidence, in case it shall appear that such copy or declaration, if produced in the United Kingdom, was officially transmitted to one of Her Majesty's Principal Secretaries of State, or, if produced in any colony, was officially transmitted to the Governor thereof: Provided always, that no person making such written declaration as aforesaid shall be capable of receiving a share of any penalty or forfeiture which shall be procured by such written declaration.

XVI. This Act may be cited for any purpose whatever under the name of the "Chinese Passengers Act, 1855."

XVII. This Act shall come into operation as soon as it shall have been proclaimed in Hong Kong by the Governor thereof, or if not so proclaimed, on the 1st day of January next ensuing.

SCHEDULE (A).—REGULATIONS RESPECTING CHINESE PASSENGER SHIPS.

Note.—The wilful and fraudulent breach of any of these regulations by the person in charge of any Chinese passenger ship is punishable by forfeiture of the ship, and every person concerned in such breach is liable to a fine of £100 for each offence.

I. No Chinese passenger ship shall clear out or proceed to sea on any voyage of more than seven days' duration without a certificate from an emigration officer; and such certificate shall be in the form provided by "The Chinese Passenger Act, 1855."

II. No emigration officer shall be bound to give such certificate in respect of any Chinese passenger ship till seven days after receiving notice that the ship is to carry passengers, and of her destination, and of her proposed day of sailing, nor unless there are on board a surgeon and interpreter approved by such emigration officer.

III. After receiving such notice the emigration officer shall be at liberty at all times to enter and inspect the ship, and the fittings, provisions, and stores therein, and any person impeding him in such entry or inspection, or refusing to allow of the same, shall be liable to a fine of not more than £100 for each offence.

IV. The emigration officer shall not give his certificate unless he shall be satisfied,

(1.) That the ship is seaworthy and properly manned, equipped,

fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers:

(2.) That the space appropriated to the passengers in the 'tween decks contains at the least 12 superficial and 72 cubical feet of space for every adult on board; that is to say, for every passenger above 12 years of age, and for every two passengers between the ages of one year and 12 years:

(3.) That a space of 5 superficial feet per adult is left clear on the upper deck for the use of the passengers:

(4.) That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the following scale:

DIETARY SCALE.

Rice	lbs. 1½	per diem.
Salted provisions:		
Wholly pork; or		
½ pork and ½ fish; or	„ ½	„
½ pork, ⅓rd beef, and ⅓rd fish		
Salted vegetable or pickles	„ ½	„
Water	imperial quarts 3	„
Firewood	lbs. 2	„
Tea	oz. ½	„

(5.) That medicines and medical comforts have been placed on board according to the following scale:

SCALE OF MEDICINES AND MEDICAL COMFORTS:

For every 100 passengers, and in like proportion for any greater or less number.

Calomel	3	oz.	
Blue pill	2	„	
Rhubarb powder	2	„	
Compound jalap powder	12	„	
Ipecacuanha powder	12	„	
Opium	2	„	
Dover's powder	2	„	
Magnesia	2	„	
Epsom salts	6	lbs.	
Chloride of lime	20	„	
Tartar emetic	4	drams.	
Quinine	2	oz.	
Antimonial powder	0½	„	
Extract of colocynth, compound	1	„	
Carbonate of ammonia	1½	„	
Assafœtida	1	„	
Camphor	1½	„	
Camphorated liniment	16	„	
Catechu	2	„	
Prepared chalk	2	„	
Tincture of opium	8	„	
Turpentine	16	„	
Senna leaves	8	oz.	
Blistering plaister	8	„	
Sulphur sublimed	16	„	
Sulphur, ointment	12	„	
Linseed flour	4	lbs.	
Country soap	24	oz.	
Castor oil	6	bottles.	
Oil of peppermint	2	oz.	
Adhesive plaister, spread	2	yards.	
Simple ointment	16	oz.	
Ringworm ointment	16	„	
Jeremie's opiate	2	oz. phial.	
Aromatic spirits of hartshorn	4	„	
Cholera pills in phial	12	drams.	
Cubebs powder	4	lbs.	
Sweet spirits of nitre	16	oz.	
Copaiba	16	„	
Sulphate of copper	2	„	
Sulphate of zinc	1	„	
Lunar caustic	4	drams.	
Lime juice	36	quarts.	
Rum or brandy	36	„	

INSTRUMENTS, &c.

1 set of amputating and other surgical instruments (if there be any person on board competent to use them).
1 one ounce glass measure.
1 minim glass measure.
1 pestle and mortar (Wedgewood).
1 set of weights and scales (grains in box).
1 set of common splints.
1 set of bleeding lancets.
1 silver catheter.
1 spatula.
1 dressing scissors.
1 infusion box.
1 quire of country paper.
1 penknife.
2 metal bed pans.
2 trusses for hernia, right and left.
2 small syringes.
4 ounces prepared lint.
2 pieces cloth for bandages.

V. The master of any Chinese passenger ship being a British ship, and proceeding on a voyage of more than seven days' duration shall, during the whole of the intended voyage, make issues of provisions, fuel, and water, according to the aforesaid dietary scale, and shall not make any alteration, except for the manifest advantage of the passengers, in respect of the space allotted to them as aforesaid, or in respect of the means of ventilation, and shall not ill-use the passengers, or require them (except in case of necessity) to help in working the vessel; and shall issue medicines and medical comforts as shall be requisite, to the best of his judgment; and shall call at such ports as may be mentioned in the emigration officer's clearing certificate for fresh water and other necessaries; and shall carry them without unnecessary delay to the destination to which they have contracted to proceed.

VI. The emigration officer shall not give his certificate until he shall have mustered the passengers, and have ascertained to the best of his power that they understand whither they are going, and comprehend the nature of any contracts of service which they have made; he shall also take care that a copy of the form of such contracts, or an abstract of their substance, signed by himself, is appended to the said certificate. If any of the passengers are in bad health, or insufficiently provided with clothing; or if the contracts are unfair, or if there is reason to suspect that fraud or violence have been practised in their collection or embarkation, he may detain the ship, and, if he shall think fit, may order all or any of the passengers to be re-landed.

SCHEDULE (B).—EMIGRATION OFFICER'S CERTIFICATE, &c.

I hereby authorize the Chinese passenger ship to proceed to sea for the port of , in ; and I certify that the said ship can legally carry adults, and that there are on board passengers, making in all adults, viz., men, women, male children, and female children, such children being between the ages of one and 12 years: that the space set apart, and to be kept clear for the use of such emigrants, is as follows: On the upper deck superficial feet, being [here describe the space], and in the between decks superficial feet, being [here describe

the space]; that the ship is properly manned and fitted, and that the means of ventilating the part of the between decks appropriated to passengers are as follows [here describe the means of ventilation]; that the ship is furnished with a proper quantity of good provisions, fuel, and water, for days' issues to the passengers according to the *annexed dietary scale, and with a proper quantity of medicines, instruments, and medical comforts according to the *annexed scale of medical necessaries; that I have inspected the contracts between the emigrants and their intended employers (the terms of which are annexed to this certificate), and consider them reasonable; that no fraud appears to have been practised in collecting the emigrants; and that there are on board a surgeon †[and interpreter] approved by me, and designated [respectively and] ‡[The master of the ship is to put into and for water and fresh vegetables.]

(Signed)

Emigration Officer.

Dated this day of 18 .

SCHEDULE (C).—FORM OF BOND TO BE GIVEN BY the MASTERS OF CHINESE PASSENGER SHIPS.

Know all men by these presents, that we are held and firmly bound unto our Sovereign Lady Queen Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, in the sum of £1,000 of good and lawful money of great Britain, to be paid to our said Sovereign Lady the Queen, her heirs and successors; to which payment, well and truly to be made, we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, administrators, and every of them, firmly by these presents.

Sealed with our seals.

Dated this day of 18 .

Whereas by the Chinese Passenger Act, 1855, it is enacted, that before any Chinese passenger ship shall clear out or proceed to sea on a voyage of more than seven days' computed duration, the master thereof shall, with two sufficient sureties to be approved by an emigration officer, enter into a bond to Her Majesty, her heirs and successors, in the sum of £1,000.

Now the condition of this obligation is this, that if (in respect of the ship , whereof is master) all and every of the requirements of the said Chinese Passenger Act, and of the regulations contained in Schedule (A) to the said Act annexed, or enacted by the Legislature of Hong Kong, shall be well and truly

* These scales must be those prescribed by the regulations in Schedule A.

† In case the ship has been authorized to proceed without an interpreter, omit the part between brackets, and add "and that the ship has been authorized to proceed without an interpreter."

‡ The part between brackets is to be inserted or not, as may be required.

des droits de tonnage que l'Article XXII du Traité de Tientsin (**No. 27**), stipule en faveur des jonques et autres embarcations Chinoises affrétées par les négociants Français. Il m'a autorisé en outre à accepter les propositions contenues dans la dépêche de Votre Altesse Impériale en date du 8 Décembre dernier, et à soumettre, tous les quatre mois, au paiement des droits de tonnage les navires Français ou affrétés par des Français qui feraient le cabotage entre les différents ports de la Chine.

En échange de ces concessions, les ports de la Cochinchine placés sous la juridiction Française et les ports du Japon seront, comme l'est déjà le port de Hongkong, assimilés aux ports Chinois, c'est-à-dire, que dorénavant les navires portant pavillon Français, à quelque titre que ce soit, pourront naviguer entre les ports de la Chine, ceux de la Cochinchine et du Japon sans que les droits de $\frac{4}{10}^{c}$ ou de $\frac{1}{10}^{c}$ par tonneau de jauge puissent leur être réclamés plus d'une fois tous les quatre mois, quelque soit le nombre de voyages.

Le Gouvernement de l'Empereur consent également à ce que les embarcations Chinoises frétées par les négociants Francais pour faire le commerce dans le Yangtsé-kiang soient soumises aux droits spécifiés dans l'Article VI des réglements sur la navigation de ce fleuve.

J'ai l'honneur, &c.,
HENRY DE BELLONET.

(2).—*Prince Kung to the French Chargé d'Affaires.*

Le Président du Yamen répliqua alors par une nouvelle dépêche (en date du 11me jour de la 7me lune de la 4me année de Toung Tché = 1er Septembre, 1865), qui confirmait celle du 8 Décembre de l'année précédente, supprimait l'Article XXII et le modifiait ainsi :—

Après l'expiration des deux jours dont il est question dans l'Article XX et avant de procéder au déchargement, chaque bâtiment Français acquittera intégralement les droits de tonnage ainsi réglés : pour les navires de 150 tonneaux de la jauge légale et au-dessus, à raison de quatre maces par tonneau ; pour les navires jaugeant moins de 150 tonneaux, à raison d'un mace par tonneau.

Le capitaine de tout navire qui sortira d'un port ouvert de Chine pour se rendre dans un autre port ouvert ou pour faire le cabotage entre la Chine, les ports de la Cochinchine placés sous la juridiction Française et ceux du Japon, devra s'adresser au Chef de la Douane qui lui délivera un certificat spécial. Si le navire se rend dans les quatre mois à compter de ce jour dans les autres ports ouverts, il y sera exempté de tous droits ; mais s'il s'y rend après l'expiration de cette période il devra acquitter les droits de tonnage.

Les barques, bateaux, caboteurs, et autres embarcations Fran-

caises à voiles ou sans voiles devront, conformement au réglement relatif aux navires ne jaugeant pas 150 tonneaux, acquitter les droits une fois tous les quatre mois, à raison d'un mace par tonneau.

Les jonques et autres embarcations Chinoises affrétées par des commerçants Français devront de la même manière acquitter les droits de tonnage une fois tous les quatre mois.

Les embarcations Chinoises affrétées par les négociants Français pour faire le commerce dans le Yangtsé seront soumises aux droits spécifiés dans l'Article VI du réglement sur la navigation de ce fleuve.

(App. 5.) *GENERAL PILOTAGE REGULATIONS* agreed to and published by the British Minister, 3rd November,* 1868.

GENERAL REGULATION I.

Bye-Laws and Local Rules.

1. Bye-laws and rules necessary for the better ordering of pilotage matters at the ports are to be drawn up by the Harbour Masters in consultation with the Consuls and Chambers of Commerce, with whom also it rests in the same way to fix the number of pilots, tariff of charges, and define the limits of the pilotage ground.

2. The number of pilots for the port of shall be

3. The pilotage ground for the port of shall be defined as follows, viz.:—

4. The pilotage charges shall be as follows, viz.:—

Steamers, or sailing vessels in tow, per foot .....
Sailing vessels, per foot ....

GENERAL REGULATION II.

Pilots: Individuals eligible.

The subjects, citizens, or protegés of Treaty Powers shall, equally with natives of China, and without distinction of nationality, be eligible for appointment when vacancies occur by the Board of Appointment, subject to the General Regulations now issued, and the bye-laws to be under them enforced at the several ports respectively.

GENERAL REGULATION III.

Board of Appointment: how to be Constructed.

The Board of Appointment shall consist of the Harbour Master as President, the (or a) Senior Pilot, and two persons, whose names

* From Mayer's "China Treaties," 1877.

§ 6. Native produce carried from Shanghai to Hankow, or Kiukiang, or *vice versâ*, pays a full import or export duty and coast trade duty. While the river trade continues under the Provisional Rules now in force, these duties will be levied at Shanghai. If the produce in question be entered for re-export to a foreign port, the coast-trade duty will be deposited and refunded as provided in clause 2 of this Rule.

(App 3.)—*REVISED REGULATIONS of Trade on the Yang-tsze Kiang. 10th November*, 1862.*

NOTIFICATION.

British Legation,
Peking, 10th November, 1862.

THE undersigned is directed to give notice that the Chinese Government, having decided on opening Custom-Houses at Hankow and Kiukiang, has communicated to the Hon. F. Bruce, C.B., Her Britannic Majesty's Envoy Extraordinary and Chief Superintendent of British Trade in China, a draft of revised regulations under which, until these ports shall be declared open by Treaty, trade with them is to be carried on.

The provisional regulations of the 5th December, 1861, will therefore continue in force only until the 1st January, 1863, on which day the revised regulations published below will come into operation. From and after that date, any violation of them by vessels entering the river, will be punished by the penalties the revised regulations provide.

By order,
(Signed) T. F. WADE,
H.B.M.'s Secy. of Legation.

REVISED REGULATIONS OF TRADE ON THE YANG-TSZE KIANG.

ARTICLE I.

British vessels† are authorized to trade on the Yang-tsze Kiang at three ports only, viz.:—Chinkiang, Kiukiang, and Hankow. Shipment or discharge of cargo at any other point on the river is prohibited, and violation of the prohibition renders ship and cargo liable to confiscation.

Native produce, when exported from any of these three ports, or foreign imports not covered by Exemption Certificates, or native produce that has not paid coast trade duty, shall, when

* From Mayers' "China Treaties," 1877.
† And all vessels belonging to Treaty Powers.

imported into any of these three ports, pay duty as at the Treaty ports.

ARTICLE II.

British merchant vessels trading on the river are to be divided into two classes, namely:—

1st Class.—*Sea-going vessels*, that is, merchantmen trading for the voyage up the river above Chinkiang, lorchas and sailing vessels generally.

2nd Class.—*Steamers* running regularly between Shanghai and the river ports.

These two classes of vessels will be dealt with according to Treaty, or the rules affecting the river ports to which they may be trading.

All vessels, to whichever of the two classes they may belong, if about to proceed up the river, must first report to the Customs the arms or other munitions of war they may have on board, and the numbers and quantities of these will be entered by the Customs on the vessel's River Pass. Permission to trade on the river will be withdrawn from any vessel detected carrying arms or munitions of war in excess of those reported to the Customs, and any vessel detected trading in arms or munitions of war will be liable to confiscation.

Any vessel falling in with a Revenue cruiser of the Chinese Government will, if examination of them be required, produce her papers for inspection.

ARTICLE III.

Sea-going vessels, merchantmen, lorchas, and sailing vessels generally, if trading at Chinkiang, will pay their duties and tonnage dues at Chinkiang.

If a vessel of this class is proceeding further than Chinkiang, that is either to Kiukiang or to Hankow, her master must deposit her papers with the Consul at Chinkiang, and must hand in her manifest to be examined by the Chinkiang Customs; the superintendent of which, on receipt of an official application from the Consul, will issue a certificate, to be called the Chinkiang pass, to the vessel. The Chinkiang pass will have entered upon it the number and quantities of arms, muskets, guns, swords, &c., on board the vessel; also the number of her crew, her tonnage, and the flag she sails under. The Customs will be at liberty to seal her hatches, and to put a customs employé on board her. On her arrival at Kiukiang, whether going up or coming down, her master must present her pass to the Customs for inspection.

The duties on cargo landed or shipped at Kiukiang or Hankow must all be paid in the manner prescribed by the regulations of whichever of the two ports she may be trading at, and on her return to Chinkiang she must surrender her Chinkiang pass to the Customs at Chinkiang, and the Customs having ascertained that her duties and dues have been all paid, and that every other con-

dition is satisfied, the grand chop will be issued to the vessel, to enable her to obtain her papers and proceed to sea.

The Customs will be at liberty to put an employé on board the vessel to accompany her as far as Lang-shan.

Any British vessel of this class found above Chinkiang without a Chinkiang pass will be confiscated. Any junk without Chinese papers will similarly be confiscated.

ARTICLE IV.

River Steamers.

Any British steamer trading regularly on the river will deposit her papers at the British Consulate at Shanghai, and the Customs, on application of the British Consul, will issue a special River Pass (or Steam Pass), that shall be valid for the term of six months. Steamers trading on the river under this pass will be enabled to load and discharge, and will pay duties according to the rule affecting *River Steamers*.

On arrival off Chinkiang or Kiukiang, the steamer, whether proceeding up the river or down, will exhibit her pass to the Customs.

The tonnage dues leviable on any steamer holding a River Pass shall be paid alternately at Chinkiang, Kiukiang, and Hankow.

The Customs are at liberty to put a tidewaiter on board a steamer at any of these ports to accompany her up or down stream, as the case may be.

Infringement of River Port Regulations will be punished by the infliction of the penalties in force at the ports open by Treaty; for a second offence the steamer's River Pass will also be cancelled, and she will be refused permission to trade thenceforward above Chinkiang.

Any steamer not provided with a River Pass, if her master propose proceeding above Chinkiang, will come under the rule affecting *sea-going vessels*, laid down in Article III, and will be treated accordingly.

ARTICLE V.

River Steamers' Cargoes.

§ 1. Where native produce is shipped at a river port on board a steamer provided with a River Pass, the shipper must pay both export and coast trade duty before he ships it. If it be for export to a foreign port, this should be stated when the produce arrives at Shanghai, and if it be exported from Shanghai within the three* months allowed, the shipper will obtain from the Shanghai Customs a certificate of its re-exportation, on production of which at the river port of shipment, whether Chinkiang,

* This period was extended to 12 months, in June, 1863.

Kiukiang, or Hankow, the Customs of that port will issue a drawback for the amount of coast trade duty paid.

§ 2. Where import cargo is transhipped on board a river steamer at Shanghai, it must first be cleared of all duties. The transhipment will not be authorised until the Customs are satisfied that the import duties have been paid.

ARTICLE VI.

Native Craft, owned or chartered by British merchants will pay duty on their cargo at the rates leviable on such cargo under the Treaty tariff. All such craft will further have to be secured by bond in the manner laid down in the provisional Rules published on the 5th December, 1861,* and on entry into any port will pay port dues according to Chinese tariff. If the cargoes of native craft so employed do not agree with their cargo certificates, the amount specified in their bonds will be forfeited to the Chinese Government. This provision is only valid until tranquility is restored along the river.

ARTICLE VII.

British vessels of all classes, as well as junks owned or chartered by British merchants, must apply to the Customs at the port of departure for a cargo certificate (*Tsung-tan*), which on the vessel or junk's arrival at the port of destination, must be handed in to the Customs before permission to discharge can be given.

The above regulations are provisional, and open to revision if necessary.

(App. 4.)—*EXCHANGE OF NOTES between the French Charyé d'Affaires at Peking and Prince Kung, respecting exemptions from Tonnage Dues. August—September*, 1865.

Pekin, le 20 *Août*, 1865

(1).—*The French Chargé d'Affaires to Prince Kung.*

MONSEIGNEUR,

LE Gouvernement de l'Empereur m'a donné l'ordre de déclarer à Votre Altesse Impériale qu'il consentait à renoncer à l'exemption

* (*Article IX of the Provisional Rules of 5th December*, 1861.)—*B.* In the case of native junks chartered or purchased by British subjects to convey produce to or from ports on the Yang-tse Kiang, the Customs at the port of departure shall, on application of the Consul, issue to the party concerned a special Junk Pass. But the said party must deposit with the Customs a bond, such party being agent of a mercantile firm established in China, or, if not so, a bond with two sufficient sureties, to the value of the vessel and cargo, to return within two months from the date of his bond, to the Collector at the port of departure, the Junk Pass issued by him, with an acknowledgment thereon, subscribed and sealed by the Collector of the port of destination of the arrival of the junk and discharge of her cargo, or failing the due return of this certificate, to forfeit the sum specified in the bond or deposited with the Customs.

re-cross the frontier, the blockade of Formosa and of Pak-Hoï will be raised, and the French Minister will enter into official relations with the Plenipotentiaries appointed by the Emperor of China, to negotiate and conclude with the least possible delay a definitive Treaty of Peace, Friendship, and Commerce. This Treaty shall fix the date on which the French troops shall evacuate the northern part of Formosa.

3. To insure the order for re-crossing the frontiers being communicated as soon as possible by the Chinese Government to the troops of Yunnan, the French Government will afford every facility for such order to reach the commanding officers of the Chinese troops by way of Tonquin.

4 Considering, however, that the order for the cessation of hostilities and for withdrawal cannot reach the French and the Chinese and their respective forces on the same day, it is understood that the cessation of hostilities, the commencement of the evacuation, and the conclusion thereof shall take place on the following dates:—

The 10th, 20th, and 30th April for the troops east of Tuyan Quan.

The 20th and 30th April and the 30th May for the troops to the west of that place.

The commanding officer who shall first receive the order to cease hostilities shall be bound to communicate the news to the nearest hostile force, and shall abstain thenceforward from any hostile movement, attack, or collision.

5. During the entire period of the armistice, and until the signature of the definitive Treaty, the two parties undertake not to convey to Formosa either troops or munitions of war.

As soon as the definitive Treaty shall have been signed and approved by Imperial Decree, France shall withdraw her ships of war employed in search duty, &c., on the high seas, and China shall reopen her Treaty ports to French vessels, &c.

Done at Paris, the 4th April, 1885.

BILLOT.
CAMPBELL.

(App. 7.) *ACT of Parliament to consolidate the Foreign Jurisdiction Acts.*

[53 & 54 Vict., cap. 37.] [4th August, 1890.]

WHEREAS by Treaty, capitulation, grant, usage, sufferance, and other lawful means, Her Majesty the Queen has jurisdiction within divers foreign countries, and it is expedient to consolidate the Acts relating to the exercise of Her Majesty's jurisdiction out of Her dominions:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Exercise of Jurisdiction in Foreign Country.

1. It is and shall be lawful for Her Majesty the Queen to hold, exercise, and enjoy any jurisdiction which Her Majesty now has or may at any time hereafter have within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory.

Exercise of Jurisdiction over British Subjects in Countries without Regular Governments.

2. Where a foreign country is not subject to any Government from whom Her Majesty the Queen might obtain jurisdiction in the manner recited by this Act, Her Majesty shall by virtue of this Act have jurisdiction over Her Majesty's subjects for the time being resident in or resorting to that country, and that jurisdiction shall be jurisdiction of Her Majesty in a foreign country within the meaning of the other provisions of this Act.

Validity of Acts done in Pursuance of Jurisdiction.

3. Every act and thing done in pursuance of any jurisdiction of Her Majesty in a foreign country shall be as valid as if it had been done according to the local law then in force in that country.

Evidence as to Existence or extent of Jurisdiction in Foreign Country.

4.—(1.) If in any proceeding, civil or criminal, in a court in Her Majesty's dominions or held under the authority of Her Majesty any question arises as to the existence or extent of any jurisdiction of Her Majesty in a foreign country, a Secretary of State shall, on the application of the court, send to the court within a reasonable time his decision on the question, and his decision shall for the purposes of the proceeding be final.

(2.) The court shall send to the Secretary of State, in a document under the seal of the court, or signed by a judge of the court, questions framed so as properly to raise the question, and sufficient answers to those questions shall be returned by the Secretary of State to the court, and those answers shall, on production thereof, be conclusive evidence of the matters therein contained.

Power to extend Enactments in First Schedule.

5.—(1.) It shall be lawful for Her Majesty the Queen in Council, if she thinks fit, by Order to direct that all or any of the enactments described in the First Schedule to this Act, or any enactments for the time being in force amending or substituted for the same, shall extend, with or without any exceptions, adaptations, or modifications in the Order mentioned, to an

foreign country in which for the time being Her Majesty has jurisdiction.

(2.) Thereupon those enactments shall, to the extent of that jurisdiction, operate as if that country were a British possession, and as if Her Majesty in Council were the Legislature of that possession.

Power to send Persons charged with Offences for Trial to a British Possession.

6.—(1.) Where a person is charged with an offence cognizable by a British court in a foreign country, any person having authority derived from Her Majesty in that behalf may, by warrant, cause the person so charged to be sent for trial to any British possession for the time being appointed in that behalf by Order in Council, and upon the arrival of the person so charged in that British possession, such criminal court of that possession as is authorized in that behalf by Order in Council, or if no court is so authorized, the supreme criminal court of that possession, may cause him to be kept in safe and proper custody, and, so soon as conveniently may be, may inquire of, try, and determine the offence, and on conviction punish the offender according to the laws in force in that behalf within that possession in the same manner as if the offence had been committed within the jurisdiction of that criminal court.

Provided that—

(*a.*) A person so charged may, before being so sent for trial, tender for examination to a British court in the foreign country where the offence is alleged to have been committed any competent witness whose evidence he deems material for his defence, and whom he alleges himself unable to produce at the trial in the British possession:

(*b.*) In such case the British court in the foreign country shall proceed in the examination and cross-examination of the witness as though he had been tendered at a trial before that court, and shall cause the evidence so taken to be reduced into writing, and shall transmit to the criminal court of the British possession by which the person charged is to be tried a copy of the evidence, certified as correct under the seal of the court before which the evidence was taken, or the signature of a judge of that court:

(*c.*) Thereupon the court of the British possession before which the trial takes place shall allow so much of the evidence so taken as would have been admissible according to the law and practice of that court, had the witness been produced and examined at the trial, to be read and received as legal evidence at the trial:

(*d.*) The court of the British possession shall admit and give effect to the law by which the alleged offender would have been tried by the British court in the foreign country in

which his offence is alleged to have been committed, so far as that law relates to the criminality of the act alleged to have been committed, or the nature or degree of the offence, or the punishment thereof, if the law differs in those respects from the law in force in that British possession.

(2.) Nothing in this section shall alter or repeal any law, statute, or usage by virtue of which any offence committed out of Her Majesty's dominions may, irrespectively of this Act, be inquired of, tried, determined, and punished within Her Majesty's dominions, or any part thereof.

Provision as to Place of Punishment of Persons Convicted.

7. Where an offender convicted before a British court in a foreign country has been sentenced by that court to suffer death, penal servitude, imprisonment, or any other punishment, the sentence shall be carried into effect in such place as may be directed by Order in Council or be determined in accordance with directions given by Order in Council, and the conviction and sentence shall be of the same force in the place in which the sentence is so carried into effect as if the conviction had been made and the sentence passed by a competent court in that place.

Validity of Acts done under Order in Council.

8. Where, by Order in Council made in pursuance of this Act, any British court in a foreign country is authorized to order the removal or deportation of any person from that country, that removal or deportation, and any detention for the purposes thereof, according to the provisions of the Order in Council, shall be as lawful as if the order of the court were to have effect wholly within that country.

Power to Assign Jurisdiction to British Courts in cases within Foreign Jurisdiction Act.

9. It shall be lawful for Her Majesty the Queen in Council, by Order, to assign to or confer on any court in any British possession, or held under the authority of Her Majesty, any jurisdiction, civil or criminal, original or appellate, which may lawfully by Order in Council be assigned to or conferred on any British court in any foreign country, and to make such provisions and regulations as to Her Majesty in Council seem meet respecting the exercise of the jurisdiction so assigned or conferred, and respecting the enforcement and execution of the judgments, decrees, orders, and sentences of any such court, and respecting appeals therefrom.

Power to amend Orders in Council.

10. It shall be lawful for Her Majesty the Queen in Council to revoke or vary any Order in Council made in pursuance of this Act.

Laying before Parliament, and effect of Orders in Council.

11. Every Order in Council made in pursuance of this Act shall be laid before both Houses of Parliament forthwith after it is made, if Parliament be then in session, and if not, forthwith after the commencement of the then next session of Parliament, and shall have effect as if it were enacted in this Act.

In what cases Orders in Council void for Repugnancy.

12.—(1.) If any Order in Council made in pursuance of this Act as respects any foreign country is in any respect repugnant to the provisions of any Act of Parliament extending to Her Majesty's subjects in that country, or repugnant to any order or regulation made under the authority of any such Act of Parliament, or having in that country the force and effect of any such Act, it shall be read subject to that Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be void.

(2.) An Order in Council made in pursuance of this Act shall not be, or be deemed to have been, void on the ground of repugnancy to the law of England unless it is repugnant to the provisions of some such Act of Parliament, order, or regulation as aforesaid.

Provisions for Protection of Persons Acting under Foreign Jurisdiction Acts.

13.—(1.) An action, suit, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or of any enactment repealed by this Act, or of any Order in Council made under this Act, or of any such jurisdiction of Her Majesty as is mentioned in this Act, or in respect of any alleged neglect or default in the execution of this Act, or of any such enactment, Order in Council, or jurisdiction as aforesaid, shall not lie or be instituted—

(*a.*) In any court within Her Majesty's dominions, unless it is commenced within six months next after the act, neglect, or default complained of, or in case of a continuance of injury or damage within six months next after the ceasing thereof, or where the cause of action arose out of Her Majesty's dominions within six months after the parties to the action, suit, prosecution, or proceeding have been within the jurisdiction of the court in which the same is instituted; nor

(*b.*) In any of Her Majesty's courts without Her Majesty's dominions, unless the cause of action arose within the jurisdiction of that court, and the action is commenced within six months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof.

(2.) In any such action, suit, or proceeding, tender of amends before the same was commenced may be pleaded in lieu of or in addition to any other plea. If the action, suit, or proceeding was

commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect costs on any injunction in the action, suit, or proceeding.

Jurisdiction over Ships in certain Eastern seas.

14. It shall be lawful for Her Majesty the Queen in Council to make any law that may seem meet for the government of Her Majesty's subjects being in any vessel at a distance of not more than 100 miles from the coast of China or of Japan, as fully and effectually as any such law might be made by Her Majesty in Council for the government of Her Majesty's subjects being in China or in Japan.

Provision as to subjects of Indian princes.

15. Where any Order in Council made in pursuance of this Act extends to persons enjoying Her Majesty's protection, that expression shall include all subjects of the several Princes and States in India.

Definitions.

16. In this Act,—

The expression "foreign country" means any country or place out of Her Majesty's dominions:

The expression "British court in a foreign country" means any British Court having jurisdiction out of Her Majesty's dominions in pursuance of an Order in Council whether made under any Act or otherwise:

The expression "jurisdiction" includes power.

Power to repeal or vary Acts in Second Schedule.

17. The Acts mentioned in the Second Schedule to this Act may be revoked or varied by Her Majesty by Order in Council.

Repeal.

18. The Acts mentioned in the Third Schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned: Provided that,—

(1.) Any Order in Council, commission, or instructions made or issued in pursuance of any enactment repealed by this Act, shall, if in force at the passing of this Act, continue in force, until altered or revoked by Her Majesty as if made in pursuance of this Act; and shall, for the purposes of this Act, be deemed to have been made or issued under and in pursuance of this Act; and

(2.) Any enactment, Order in Council, or document referring

to any enactment repealed by this Act shall be construed to refer to the corresponding enactment of this Act.

Short Title.

19.—(1.) This Act may be cited as the Foreign Jurisdiction Act, 1890.

(2.) The Acts whereof the short titles are given in the First Schedule to this Act may be cited by the respective short titles given in that schedule.

SCHEDULES.

First Schedule.

Acts referred to in Sections 5, 19.

Second Schedule.

Acts referred to in Section 17.

Third Schedule.

Enactments repealed by Section 18.

(App. 8.) *IMPERIAL DECREE ordering Protection to be afforded to Foreign Missionary Establishments. 13th June,* 1891.*

(Translation.)

WE have received a memorial from the Tsung-li Yamên dwelling on the frequency of missionary cases, and praying that stringent instructions should be issued to the various Viceroys and Governors, directing them to take prompt measures for dealing with the question. The memorialists state that, during the fourth moon of the present year (8th May to 6th June, 1891), the missionary buildings at Wuhu, in Anhui, were burnt down by rioters, and that missionary premises in the Tan Yang district, in Kiangsu, in the market town of Wuhsueh, in Hupei, and at various other places, were also in close succession similarly destroyed, and they urge the extreme importance of securing the apprehension of the rioters, and of taking timely and effectual measures of protection.

The right of foreign missionaries to promulgate their religions in China is provided for by Treaty and by edicts which were pre-

* From Parl. Paper. China No. 1 (1892). Page 92. Published in the "Peking Gazette," of June 13, 1891.

† See also Decree of 9th August, 1895. Page 712.

viously issued; the authorities of all the provinces were commanded to afford them protection as circumstances required. There has been peace and harmony between Chinese and foreigners for a long series of years, and how comes it that within the last few days all these cases of the burning and destruction of missionary buildings should have occurred almost simultaneously? It is assuredly a matter which excites the greatest surprise. It is plain that, connected with the movement, there are desperate characters secretly plotting to gain adherents, and to inflame the feelings of the people by the dissemination of false rumours, their object really being to take advantage of the opportunity to commit rapine and plunder.

What is still worse, good and peaceable citizens are being inveigled to join them in committing a succession of the gravest crimes, and unless severe punishment is meted out to them how can the majesty of the law be upheld, and the tranquility of the country preserved.

We command the Viceroys of the Two Kiang and Hu Kuang, and the Governors of Kiangsu, Anhui, and Hupei, to lose no time in directing the civil and military authorities concerned to take steps for arresting the principal criminals, and for having them tried, and, when found guilty, condemned to capital punishment, in order that a warning may be given for the future.

The religions of the West have for their object the inculcation of virtue, and though people become converts, they still remain Chinese subjects, and continue to be amenable to the jurisdiction of the local authorities.

There is no reason why there should not be harmony between the ordinary people and the adherents of (foreign) religions, and the whole trouble arises from lawless ruffians fabricating baseless stories, and making an opportunity for creating disturbance. These bad characters exist everywhere. We command the Manchu Generals-in-Chief, the Viceroys, and Governors in all the provinces to issue Proclamations, clearly explaining to the people that they must on no account give a ready ear to such idle tales and wantonly cause trouble. Let all who post anonymous placards and spread false rumours inflaming the minds of the people be at once arrested and severely punished. The local authorities are bound to afford due protection at all times to the persons and property of foreign merchants and foreign missionaries, and must not allow them to be injured or molested by evil characters.

Should the precautionary measures be lacking in stringency, and trouble be the result, we command that the local authorities be severely denounced. We further command the Manchu Generals-in-Chief, the Viceroys and Governors in all the provinces, to take immediate steps for settling all outstanding cases, and not to allow their subordinates to shrink from the difficulty of the task and interpose delays, in order that a complete clearance may be made of all arrears in the archives.

Let this Decree be proclaimed for general information.

(App. 9.) *CONVENTION between Great Britain and China* relative to Burmah and China. Boundaries, &c. Signed at London, March* 1, 1894.†

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Majesty the Emperor of China, being sincerely desirous of consolidating the relations of friendship and good neighbourhood which happily exist between the two Empires, have resolved to conclude a Convention with the view of giving effect to Article III of the Convention relative to Burmah and Tibet, signed at Peking on the 24th July, 1886 (**No. 15**), and have appointed as their Plenipotentiaries for this purpose, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable the Earl of Rosebery, Knight of the Most Noble Order of the Garter, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs;

And His Majesty the Emperor of China, Sieh Ta-jên, Envoy Extraordinary and Minister Plenipotentiary of China at the Court of St. James's, and Vice-President of the Imperial Board of Censors;

Who, having mutually communicated to each other their respective Full Powers, found to be in good and due form, have agreed upon the following Articles:—

ARTICLE I.

Boundary. First Section.

It is agreed that the frontier between the two Empires, from latitude 25° 35′ north, shall run as follows:—

Commencing at the high conical peak situated approximately in that latitude and in longitude 98° 14′ east of Greenwich and 18° 16′ west of Peking, the line will follow as far as possible the crest of the hills running in a south-westerly direction through Kaolang Pum and the Warong Peak, and thence run nearly midway between the villages of Wanchon and Kaolang—leaving the former to Burmah and the latter to China—on to Sabu Pum.

From Sabu Pum the frontier will run in a line slightly to the south of west through Shatrung Pum to Namienku Pum; thence it will be continued, still running in a south-westerly direction, along the crest of the hills until it strikes the Tazar Kha River, the course of which it will follow from its source to its confluence with the Nam Tabet or Tabak Kha, thus leaving Uka to the east and Laipong to the west.

* Page 87

† Ratifications exchanged at London, August 23, 1894.

From the confluence of the Tazar Kha River with the Talak Kha, the frontier will ascend the latter river to its junction with the Lekra Kha, which it will follow to its source near Nkrang. From the source of the Lekra Kha, leaving Nkrang, Kukum, and Singra to the west, and Sima and Mali to the east, the line will follow the Lesa Kha from its western source to its junction with the Mali River, and thence will ascend the Mali to its source near Hpunra Shikong: thence it will run in a south-westerly direction along the Laisa Kha from its source down to the point where it falls into the Molée River near Kadon, leaving the village of Kadon to the west and that of Laisa to the east.

The line will then follow the course of the Molé in a south-easterly direction to the place where it receives the Che Yang Kha, which latter river it will follow to its source in the Alau Pum. It will then be directed along the Nampaung River from its western source down to where it enters the Taping River.

This concludes the description of the first section of the frontier.

ARTICLE II.

Boundary. Second Section.

The second section of the frontier, or that portion of it which extends from the Taping River to the neighbourhood of Meung Mao, will run as follows:—

Starting from the junction of the Khalong Kha with the Taping River, the frontier will follow the Khalong Kha and its western branch to its source; it will be drawn thence southward to meet the Sipaho or Lower Nanthabet at a spot immediately to the south-west of Hanton, leaving Matin to Great Britain and Loilong-ga-Tong, Tiêh-pi-Kwan, and Hanton to China; thence it will ascend the branch of the last-named river which has its source nearest to that of the Mantein Kha. It will thence follow the crests of the line of hills running in a south-easterly direction to the more southerly of the two places named Kadaw, which is close to the Namwan River, leaving Kadaw to China and Palen to Great Britain. It will follow the Namwan River in a south-westerly direction down to the point in about latitude 23° 55′, where that river takes a south-easterly course. Thence it will run in a direction somewhat west of south to the Nammak River, leaving Namkhai to Great Britain. It will follow the Nammak River to the point where it bifurcates in about latitude 23° 47′, and will then ascend the southern branch till it reaches the crest of a high range of hills to the south of Mawsiu, in about latitude 23° 45′. It will follow the crest of this range (which runs slightly to the north of east) until it reaches the Shweli River at its junction with the Nammak, thus leaving to China the district of Mawsiu, the spot recently identified as Tien-ma-Kwan, and the villages of Hinglong and Kongmow, lying to the north of the above-mentioned range.

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It will then follow the course of the Shweli River, and where the river bifurcates it will follow the more southerly of the two branches, leaving to China the island formed by them, until it reaches a point near the eastern end of the loop which the river forms opposite to Meung Mao, as indicated in the next Article of the Convention.

Road between Bhamo and Namkhan.

The Government of China consent that the most direct of the roads between Bhamo and Namkhan, where it passes through the small portion of Chinese territory south of the Namwan, shall, while remaining entirely open to Chinese subjects and to the tribesmen subject to China, be free and open to Great Britain for travellers, commerce, and administrative purposes, without any restrictions whatever. Her Britannic Majesty's Government shall have the right, after communication with the Chinese authorities, to execute any works which may be desirable for the improvement or repair of the road, and to take any measures which may be required for the protection of the traffic and the prevention of smuggling.

Passage of Troops along Road.

It is equally agreed that British troops shall be allowed to pass freely along this road. But no body of troops more than 200 in number shall be dispatched across it without the consent of the Chinese authorities, and previous notice in writing shall be given of every armed party of more than 20 men.

ARTICLE III.

Boundary. Third Section.

The third section of the frontier will run as follows:—

It will commence from a point on the Shweli River, near to the east end of the loop formed by that river opposite to Meung Mao; thence, paying due regard to the natural features and the local conditions of the country, it will trend in a south-easterly direction towards Ma-li-pa until it reaches, at a point in about longitude 98° 7′ east of Greenwich (18° 23′ west of Peking), and latitude 23° 52′, a conspicuous mountain range. It will follow the crests of that range through Loiaipong and Loipanglom until it reaches the Salween River, in about latitude 23° 41′.

This portion of the frontier from the Shweli to the Salween River shall be settled by the Boundary Commission provided for in Article VI of the present Convention, and in such a manner as to give to China at least as much territory as would be included if the frontier were drawn in a straight line from Meung Mao towards Ma-li-pa.

If it should be found that the most suitable frontier will give to China a larger amount of territory than is stated above, the compensation to be given to Great Britain on some other part of the frontier shall be matter for subsequent arrangement.

Kunlong given to Great Britain, and Kokang to China.

From latitude 23° 41′ the frontier will follow the Salween until it reaches the northern boundary of the circle of Kunlong. It will follow that boundary in an easterly direction, leaving the whole circle of Kunlong and the ferry of that name to Great Britain, and leaving to China the State of Kokang.

Somu and Mêng Ting.

It will then follow the course of the river forming the boundary between Somu, which belongs to Great Britain, and Mêng Ting, which belongs to China. It will still continue to follow the frontier between those two districts, which is locally well known, to where it leaves the aforesaid river and ascends the hills; and will then follow the line of water-parting between the tributaries of the Salween and the Meikong Rivers, from about longitude 99° east of Greenwich (17° 30′ west of Peking), and latitude 23° 20′, to a point about longitude 99° 40′ east of Greenwich (16° 50′ west of Peking), and latitude 23°, leaving to China the Tsawbwaships of Kêng Ma, Mentung, and Mengko

Chen-pien Ting left to China.

At the last-named point of longitude and latitude the line strikes a very lofty mountain range, called Kong-Ming-Shan, which it will follow in a southerly direction to about longitude 99° 30′ east of Greenwich (17° west of Peking), and latitude 22° 30′, leaving to China the district of Chen-pien Ting.

Munglem left to China and Manglün to Great Britain.

Then, descending the western slope of the hills to the Namka River, it will follow the course of that river for about 10′ of latitude, leaving Munglem to China and Manglün to Great Britain.

It will then follow the boundary between Munglem and Kyaing Tong, which is locally well known, diverging from the Namka River a little to the north of latitude 22°, in a direction somewhat south of east, and generally following the crest of the hills till it strikes the Namlam River in about latitude 21° 45′, and longitude 100° east of Greenwich (16° 30′ west of Peking).

Kiang-Hung.

It will then follow the boundary between Kyaing Tong and

Kiang Hung, which is generally formed by the Namlam River, with the exception of a small strip of territory belonging to Kiang Hung, which lies to the west of that river just south of the last-named parallel of latitude. On reaching the boundary of Kyaing Chaing, in about latitude 21° 27′, and longitude 100° 12′ east of Greenwich 16° 18′ west of Peking, it will follow the boundary between that district and Kiang Hung until it reaches the Meikong River.

ARTICLE IV.

Delimitation of Boundary to the North of Latitude 25° 35′ reserved.

It is agreed that the settlement and delimitation of that portion of the frontier which lies to the north of latitude 25° 35′ north shall be reserved for a future understanding between the High Contracting Parties when the features and conditions of the country are more accurately known.

ARTICLE V.

Cession to China of States of Munglem and Kiang Hung.

In addition to the territorial concessions in Northern Theinni, and the cession to China of the State of Kokang, which result from the frontier as above described, Her Britannic Majesty, in consideration of the abandonment of the claims advanced by China to the territory lying outside and abutting on the frontier of the Prefecture of Yung Chang and Sub-Prefecture of Teng Yüeh, agrees to renounce in favour of His Majesty the Emperor of China, and of his heirs and successors for ever, all the suzerain rights in and over the States of Munglem and Kiang Hung* formerly possessed by the Kings of Ava concurrently with the Emperors of China.

Non-cession of Munglem or Kiang Hung by China to any other Nation.

These and all other rights in the said States, with the titles, prerogatives, and privileges thereto pertaining, Her Majesty the Queen-Empress renounces as aforesaid, with the sole proviso that His Majesty the Emperor of China shall not, without previously coming to an agreement with Her Britannic Majesty, cede either Munglem or Kiang Hung, or any portion thereof, to any other nation.

ARTICLE VI.

Demarcation of Boundary Line. Joint Commission to be appointed, if necessary.

It is agreed that, in order to avoid any local contention, the

* See also Note page 702.

alignments of the frontier described in the present Convention, and shown on the maps annexed thereto, shall be verified and demarcated, and, in case of its being found defective at any point, rectified by a Joint Commission appointed by the High Contracting Parties; and that the said Commission shall meet, at a place hereafter to be determined on by the two Governments, not later than 12 months after the exchange of the ratifications of the present Convention; and shall terminate its labours in not more than three years from the date of its first meeting.

Equivalent Compensations.

It is understood that any alterations in the alignment which the Joint Commission may find it necessary to make shall be based on the principle of equivalent compensations, having regard not only to the extent, but also to the value, of the territory involved. Further, that should the members of the Commission be unable to agree on any point, the matter of disagreement shall at once be referred to their respective Governments.

Situation of Hanlung Kwan to be identified, if possible.

The Commission shall also endeavour to ascertain the situation of the former frontier-post of China named Hanlung Kwan. If this place can be identified, and is found to be situated in British territory, the British Government will consider whether it can, without inconvenience, be ceded to China.

If it shall be found to the south-east of Meung Mao so as to be on the northern side of the straight line drawn from that place towards Ma-li-pa, it will in that case already belong to China.

ARTICLE VII.

Withdrawal of Military Posts, where necessary.

It is agreed that any posts belonging to either country which may be stationed within the territory of the other when the Commission of Delimitation shall have brought its labours to a conclusion shall, within eight months from the date of such conclusion, be withdrawn, and their places occupied by the troops of the other, mutual notice having in the meantime been given of the precise date at which the withdrawal and occupation will take place.

Maintenance of Good Order and Tranquillity of Tribes.

From the date of such occupation the High Contracting Parties shall each within its own territories hold itself responsible for the maintenance of good order, and for the tranquillity of the tribes inhabiting them.

Kiang Hung, which is generally formed by the Namlam River, with the exception of a small strip of territory belonging to Kiang Hung, which lies to the west of that river just south of the last-named parallel of latitude. On reaching the boundary of Kyaing Chaing, in about latitude 21° 27′, and longitude 100° 12′ east of Greenwich (16° 18′ west of Peking), it will follow the boundary between that district and Kiang Hung until it reaches the Meikong River.

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ARTICLE V.

Cession to China of States of Munglem and Kiang Hung.

In addition to the territorial concessions in Northern Theinni, and the cession to China of the State of Kokang, which result from the frontier as above described, Her Britannic Majesty, in consideration of the abandonment of the claims advanced by China to the territory lying outside and abutting on the frontier of the Prefecture of Yung Chang and Sub-Prefecture of Teng Yüeh, agrees to renounce in favour of His Majesty the Emperor of China, and of his heirs and successors for ever, all the suzerain rights in and over the States of Munglem and Kiang Hung* formerly possessed by the Kings of Ava concurrently with the Emperors of China.

Non-cession of Munglem or Kiang Hung by China to any other Nation.

These and all other rights in the said States, with the titles, prerogatives, and privileges thereto pertaining, Her Majesty the Queen-Empress renounces as aforesaid, with the sole proviso that His Majesty the Emperor of China shall not, without previously coming to an agreement with Her Britannic Majesty, cede either Munglem or Kiang Hung, or any portion thereof, to any other nation.

ARTICLE VI.

Demarcation of Boundary Line. Joint Commission to be appointed, if necessary.

It is agreed that, in order to avoid any local contention, the

* See also Note, page 702.

alignments of the frontier described in the present Convention, and shown on the maps annexed thereto, shall be verified and demarcated, and, in case of its being found defective at any point, rectified by a Joint Commission appointed by the High Contracting Parties; and that the said Commission shall meet, at a place hereafter to be determined on by the two Governments, not later than 12 months after the exchange of the ratifications of the present Convention; and shall terminate its labours in not more than three years from the date of its first meeting.

Equivalent Compensations.

It is understood that any alterations in the alignment which the Joint Commission may find it necessary to make shall be based on the principle of equivalent compensations, having regard not only to the extent, but also to the value, of the territory involved. Further, that should the members of the Commission be unable to agree on any point, the matter of disagreement shall at once be referred to their respective Governments.

Situation of Hanlung Kwan to be identified, if possible.

The Commission shall also endeavour to ascertain the situation of the former frontier-post of China named Hanlung Kwan. If this place can be identified, and is found to be situated in British territory, the British Government will consider whether it can, without inconvenience, be ceded to China.

If it shall be found to the south-east of Meung Mao so as to be on the northern side of the straight line drawn from that place towards Ma-li-pa, it will in that case already belong to China.

ARTICLE VII.

Withdrawal of Military Posts, where necessary.

It is agreed that any posts belonging to either country which may be stationed within the territory of the other when the Commission of Delimitation shall have brought its labours to a conclusion shall, within eight months from the date of such conclusion, be withdrawn, and their places occupied by the troops of the other, mutual notice having in the meantime been given of the precise date at which the withdrawal and occupation will take place.

Maintenance of Good Order and Tranquillity of Tribes.

From the date of such occupation the High Contracting Parties shall each within its own territories hold itself responsible for the maintenance of good order, and for the tranquillity of the tribes inhabiting them.

Non-construction of Fortifications, &c., within Ten Miles of Frontier, except Posts necessary for Maintenance of Order.

The High Contracting Parties further engage neither to construct nor to maintain within 10 English miles from the nearest point of the common frontier, measured in a straight line and horizontal projection, any fortifications or permanent camps, beyond such posts as are necessary for preserving peace and good order in the frontier districts.

ARTICLE VIII.

Freedom of Trade between China and Burmah, except in Salt and Rice.

Subject to the conditions mentioned hereafter in Articles X and XI, the British Government, wishing to encourage and develop the land trade of China with Burmah as much as possible, consent, for a period of six years from the ratification of the present Convention, to allow Chinese produce and manufactures, with the exception of salt, to enter Burmah by land duty free, and to allow British manufactures and Burmese produce, with the exception of rice, to be exported to China by land free of duty.

Duties on Salt and Rice.

The duties on salt and rice so imported and exported shall not be higher than those imposed on their import or export by sea.

ARTICLE IX.

Passage of Goods across Frontier by Manwyne and Sansi.

Pending the negotiation of a more complete arrangement, and until the development of the trade shall justify the establishment of other frontier Customs stations, goods imported from Burmah into China or exported from China into Burmah shall be permitted to cross the frontier by Manwyne and by Sansi.

Import and Export Duties. General Tariff of Maritime Customs diminished.

With a view to the development of trade between China and Burmah, the Chinese Government consent that for six years from the ratification of the present Convention the duties levied on goods imported into China by these routes shall be those specified in the General Tariff of the Maritime Customs diminished by three-tenths, and that the duties on goods exported from China by the same route shall be those specified in the same tariff diminished by four-tenths.

Transit Passes.

Transit passes for imports and exports shall be granted in accordance with the rules in force at the Treaty ports.

Smuggled Goods liable to Confiscation.

Smuggling or the carrying of merchandize through Chinese territory by other routes than those sanctioned by the present Convention shall, if the Chinese authorities think fit, be punished by the confiscation of the merchandize concerned.

ARTICLE X.

Contraband Articles. Munitions of War.

The following articles, being munitions of war, shall neither be exported from Burmah into China, nor imported from China into Burmah, save at the requisition of the Government desiring their importation; neither shall they be sold to parties other than those who have been duly authorized by their respective Governments to purchase them:—

Cannon, shot and shell, cartridges, and ammunition of all kinds, fire-arms and weapons of war of every description. Saltpetre, sulphur, brimstone, gunpowder, dynamite, gun-cotton, or other explosives.

ARTICLE XI.

Salt.

The exportation from Burmah into China of salt is prohibited.

Cash, Rice, Pulse, and Grains.

The exportation from China into Burmah of cash, rice, pulse and grains of every kind is prohibited.

Opium and Spirituous Liquors.

The importation and exportation across the frontier of opium and spirituous liquors is prohibited, excepting in small quantities for the personal use of travellers. The amount to be permitted will be settled under Customs Regulations.

Prohibited Goods liable to Confiscation.

Infractions of the conditions set forth in this and the preceding Article will be punishable by confiscation of all the goods concerned.

ARTICLE XII.

Navigation of the Irrawaddy by Chinese Vessels, Dues, &c.

The British Government, wishing to promote frontier trade between the two countries by encouraging mining enterprise in Yünnan and in the new territorial acquisitions of China referred to in the present Convention, consent to allow Chinese vessels carrying merchandise, ores, and minerals of all kinds, and coming from or destined for China, freely to navigate the Irrawaddy on the same conditions as to dues and other matters as British vessels.

ARTICLE XIII.

Appointment of Chinese Consul at Rangoon, and of British Consul at Manwyne.

It is agreed that His Majesty the Emperor of China may appoint a Consul in Burmah, to reside at Rangoon; and that Her Britannic Majesty may appoint a Consul to reside at Manwyne;

Consular Privileges, &c.

and that the Consuls of the two Governments shall each within the territories of the other enjoy the same privileges and immunities as the Consuls of the most-favoured nation.

Appointment of Additional Consuls.

Further, that, in proportion as the commerce between Burmah and China increases, additional Consuls may be appointed by mutual agreement, to reside at such places in Burmah and Yunnan as the requirements of the trade may seem to demand.

Correspondence.

The correspondence between the British and Chinese Consuls respectively, and the chief authority at the place where they reside, shall be conducted on terms of perfect equality.

ARTICLE XIV.

Passports.

Passports, written in Chinese and English, and identical in terms to those issued to foreigners at the Treaty ports in China, shall, on the application of the proper British authorities, be issued to British merchants and others wishing to proceed to China from Burmah, by the Chinese Consul at Rangoon or by the Chinese authorities on the frontier; and Chinese subjects wishing to pro-

ceed to Burmah from China shall, on the application of any recognized Chinese official, be entitled to receive similar passports from Her Britannic Majesty's Consul at Manwyne or other convenient places in China where there may be a British Consular officer.

ARTICLE XV.

Extradition of Criminals.

Should criminals, subjects of either country, take refuge in the territory of the other, they shall, on due requisition being made, be searched for, and on reasonable presumption of their guilt being established, they shall be surrendered to the authorities demanding their extradition.

"Due requisition" shall be held to mean the demand of any functionary of either Government possessing a seal of office, and the demand may be addressed to the nearest frontier officer of the country in which the fugitive has taken refuge.

ARTICLE XVI.

Telegraphic Communications.

With a view to improving the intercourse between the two countries, and placing the Chinese Consul at Rangoon in communication with the High Provincial Authorities in Yünnan, the High Contracting Parties undertake to connect the telegraphic systems of the two countries with each other as soon as the necessary arrangements can be made; the line will, however, at first only be used for the transmission of official telegrams and of general messages for and from Burmah and the Province of Yünnan.

ARTICLE XVII.

Subjects of either Country to enjoy Most-favoured-nation Treatment.

It is agreed that subjects of the two Powers shall each within the territories of the other enjoy all the privileges, immunities and advantages that may have been, or may hereafter be, accorded to the subjects of any other nation.

ARTICLE XVIII.

Mutual Commercial Concessions. Burmah-China Overland Trade.

It is agreed that the commercial stipulations contained in the present Convention being of a special nature and the result of mutual concessions, consented to with a view to adapting them to local conditions and the peculiar necessities of the Burmah-China overland trade, the advantages accruing from them shall not be invoked by the subjects of either Power residing at other places

where the two Empires are conterminous, excepting where the same conditions prevail, and then only in return for similar concessions.

ARTICLE XIX.

Commercial Arrangements experimental only.

The arrangements with regard to trade and commerce contained in the present Convention being of a provisional and experimental character, it is agreed that should subsequent experience of their working, or a more intimate knowledge than is now possessed of the requirements of the trade, seem to require it, they may be revised at the demand of either party after a lapse of six years after the exchange of ratifications of the present Convention, or sooner should the two Governments desire it.

ARTICLE XX.

Ratifications.

The ratification of the present Convention under the hand of Her Britannic Majesty and of His Majesty the Emperor of China shall be exchanged in London in six months from this day of signature, or sooner, if possible.

The Convention shall come into force immediately after the exchange of ratifications.

In token whereof the respective Plenipotentiaries have signed this Convention in four copies, two in Chinese and two in English.

Done at London this 1st day of March, 1894, corresponding to the 24th day of the 1st moon of the 20th year of Kuang Hsu.

(L.S.) ROSEBERY.
(L.S.) SIEH.

Declaration. Convention applicable to Burmah and China only.

On proceeding to the signature, this day of the Convention between Great Britain and China, giving effect to Article III of the Convention relative to Burmah and Tibet, signed at Peking on the 24th July, 1886 **No. 15**.

The undersigned Plenipotentiaries declare that, inasmuch as the present Convention has been concluded for the special purpose mentioned in the preamble thereof, the stipulations contained therein are applicable only to those parts of the dominions of Her Britannic Majesty and of His Majesty the Emperor of China to which the said Convention expressly relates, and are not to be construed as applicable elsewhere.

Done at London the 1st day of March, 1894.

(L.S.) ROSEBERY.
(L.S.) SIEH.

(App. 10.) *CONVENTION between Great Britain and China respecting the Junction of the Chinese and Burmese Telegraph Lines.** *Signed at Tien-tsin, September* 6, 1894.

ARTICLE I.

THE Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of His Majesty the Emperor of China, with a view to facilitating international telegraph communication, have resolved to effect a junction between the telegraph lines of the two States on the frontier of Burmah and Yünnan.

ARTICLE II.

The junction shall be effected between the British station at Bhamo and the Chinese station at Tingyueh (Momein), at a point situated conveniently near to where the main route of communication between those places crosses the frontier. The exact point of junction is to be arranged as soon as possible.

An intermediate station will be established at Manwyne.

ARTICLE III.

The junction shall be effected as soon as possible, and at latest on the 31st May, 1895, unless prevented by accident or by *force majeure*, and in that case as soon as possible thereafter.

ARTICLE IV.

The Indian and the Chinese Telegraph Administrations shall establish, work, and maintain in good condition the line of connection, and shall exchange the correspondence by wire between the two stations named in Article II.

Each of the Contracting Parties shall bear the expense incurred for these purposes on its own territory, and will take care that the boundaries between the territories of the two Governments are scrupulously respected.

ARTICLE V.

The rules for the extra-European system laid down in the Service Regulations of the International Telegraph Convention shall be observed with regard to the technical treatment of telegrams transmitted over the line of connection described in Article II.

* Parliamentary Paper Treaty Series No. 9 (1895).

But in reckoning the number of words in telegrams between China or Hong Kong on the one side, and Burma, India, or Ceylon on the other side, the rules of the European system laid down in the Service Regulations of the International Telegraph Convention shall be observed.

When the senders of telegrams do not expressly indicate the route by which they wish their telegrams to be forwarded, it is understood that at lower rates all correspondence, and at equal rates half the correspondence, shall be forwarded *viâ* the line of connection described in Article II, provided that the alternative routes are in equally good working order.

ARTICLE VI.

Each of the Contracting Parties fixes the charges for transmission of telegrams by its line up to the frontier of its own territory.

It is, however, agreed that before January, 1897, the charges declared in Article VII of this Convention cannot be raised, though each of the Contracting Parties reserves its right to reduce its own charges during that period, if it think fit.

ARTICLE VII.

In accordance with the stipulations of the preceding Article, the following charges per word are declared for correspondence exchanged *viâ* the line of connection described in Article II.

1. *Charges levied by the Indian Telegraph Administration.*

(A.)—Terminal Charges.

	Frs.
1. From stations in Burmah to the Chinese frontier.. ..	0·575
2. „ India „ „	0·825
3. „ Ceylon „ „	0·940

(B.)- Transit Charges.

Between the Chinese frontier, viâ Bhamo, and –

1. The Siamese frontier, viâ Moulmein	0·350
2. All other frontiers	1·500

2. *Charges levied by the Chinese Telegraph Administration.*

(A.)—Terminal Charges.

	Frs.
1 For correspondence exchanged by the Burmese-Yunnan line between Burmah, India, and Ceylon on the one side, and on the other side—	
(*a*) Stations in Yunnan..	0·750
(*b*) All other stations situated on the Yang tsû or to the south of the Yang-tsû	1·250

[Chinese and Burmese Telegraph Lines.]

	Frs.
(*c.*) All stations situated to the north of the Yang-tzû, except those in Corea	2·250
(*d.*) Chinese stations in Corea	2·500
2. For correspondence exchanged by the Burmese-Yünnan line between China or Hong Kong on the one side, and Europe, or countries beyond Europe, on the other side..	5·500
3. For correspondence exchanged by the Burmese-Yünnan line between other countries and—	
(*a.*) Stations in Yünnan..	1·000
(*b.*) All other stations situated on the Yang-tzû or to the south of the Yang-tzû	1·500
(*c.*) All stations situated to the north of the Yang-tzû, except those in Corea	2·250
(*d.*) Chinese stations in Corea	2·500

(B.)—Transit Charges.

1. Between the Burmese frontier, viâ Tingyueh (Momein), and all other frontiers, on correspondence exchanged between Europe and countries beyond Europe on the one side, and all other countries on the other side	5·500
2. On all other correspondence between the Burmese frontier, viâ Tingyueh (Momein), and—	
(*a.*) The Cable Companies at Hong Kong, Amoy, Foochow, and Shanghae	1·250
(*b.*) All other frontiers	2·500

The charges established for the correspondence between China on the one side, and Burmah, India, and Ceylon on the other side, are solely for correspondence actually exchanged between the named neighbouring countries, and the Chinese European correspondence cannot be retelegraphed at these rates by private agencies or persons at intermediate stations.

ARTICLE VIII.

The checking of the amount of correspondence exchanged *viâ* the line of junction shall take place daily by wire between the stations named in Article II.

The settlement of accounts shall take place at the end of each month, and the resulting balance shall be paid within one month after the end of the month, in account to the Indian Telegraph Administration at Calcutta, or to the Chinese Telegraph Administration at Shanghae.

The month shall be reckoned according to the European calendar.

Telegrams referring to the settlement of accounts shall be considered as Service Telegrams, and transmitted free of charge.

ARTICLE IX.

The rate of exchange for the collection of the charges declared in Article VII, and for settlement of accounts, shall be:—

One franc reckoned as 0·60 of a rupee, and as 0·26 of a Mexican dollar.

As regards outpayments to Telegraph Administrations beyond China and India, the Chinese and Indian Telegraph Administrations will communicate to each other their amount, and this amount the two Administrations will be at liberty to collect and settle, at such rates as may protect them from loss.

ARTICLE X.

The present Convention shall come into force on the date of its signature, and shall remain in force for ten years, and shall thereafter continue in force until six months after one of the Contracting Parties shall have given notice of its intention to modify or to abrogate it.

In witness whereof the undersigned, duly authorised to this effect, have signed the present Convention.

Done at Tien-tsin in four expeditions, of which two in the English language, and two in the Chinese language, the sixth day of September, 1894, corresponding with the seventh day of the eighth moon of the 20th year of the reign of Kwang-Hsu.

(L.S.) N. R. O'CONOR, *Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of Peking.*

(L.S.) EARL LI, *The Imperial Commissioner First Grand Secretary of State, Viceroy of the Province of Chi-li.*

KYAING-HUNG.*—On the 1st December, 1893, the French Government were officially informed by the British Government that no Treaty had then been signed between Great Britain and China, on the subject of the State of Kyaing-Hung, and that England had no intention of seeking to obtain any monopoly, either for railways, steam boat companies, or any other mode of transit or communication, to the detriment of French commercial enterprises of the same kind; and that it was understood that, in that respect, the field would be left open to French and English enterprise. In return, the French Government stated that the delimitation of the French possessions on the side of Kyaing-Hung had not then been made, but that, in the negotiations on the subject which the French Government would have to carry on with the Chinese Government, they intended to be guided by the same principles as were laid down by the British Government in their communication of the 1st December, 1893. (See also Convention, Great Britain and China, 1st March, 1894. Art. 5, p. 692.).

* Par. Paper, "Siam, No. 1 (1894)." See also App. 2, Art. 5, p. 665.

(App. 11.) *TREATY OF PEACE between China and Japan. Signed at Shimonoseki, April* 17, 1895.

(Translation.)

[Ratifications exchanged at Chefoo, May 8, 1895.]

His Majesty the Emperor of Japan, and His Majesty the Emperor of China, desiring to restore the blessings of peace to their countries and subjects, and to remove all cause for future complications,* have named as their Plenipotentiaries for the purpose of concluding a Treaty of Peace, that is to say:—

[Here follow the Names and Titles of the Plenipotentiaries.]

Who, after having exchanged their full powers which were found to be in good and proper form, have agreed to the following Articles:—

ARTICLE I.

Independence of Corea.

China recognizes definitely the full and complete independence and autonomy of Corea, and, in consequence, the payment of tribute and the performance of ceremonies and formalities by Corea to China in derogation of such independence and autonomy shall wholly cease for the future.

ARTICLE II.

Territorial Cessions by China to Japan.

China cedes to Japan in perpetuity and full sovereignty the following territories, together with all fortifications, arsenals, and public property thereon:—

(*a.*) The southern portion of the Province of Fêng-tien,† within the following boundaries—

The line of demarcation begins at the mouth of the River Yalu, and ascends that stream to the mouth of the River An-ping; from thence the line runs to Fêng Huang; from thence to Haicheng; from thence to Ying-kow, forming a line which describes the southern portion of the territory. The places above named are included in the ceded territory. When the line reaches the River Liao at Ying-kow it follows the course of that stream to its mouth, where it terminates. The mid-channel of the River Liao shall be taken as the line of demarcation.

* War was declared by Japan against China on the 3rd August, 1894, and a British Proclamation of Neutrality was issued on the 7th of the same month.

† See Japanese Proclamation, 10th of May, 1895. Page 683.

This cession also includes all islands appertaining or belonging to the Province of Fêng Tien situated in the eastern portion of the Bay of Liao Tung, and in the northern part of the Yellow Sea,

Island of Formosa.

(*b.*) The island of Formosa, together with all islands appertaining or belonging to the said Island of Formosa.

Pescadores Group.

(*c.*) The Pescadores Group, that is to say, all islands lying between the 119th and 120th degrees of longitude east of Greenwich, and the 23rd and 24th degrees of north latitude.

ARTICLE III.

Boundary Commission to be appointed.

The alignments of the frontiers described in the preceding Article, and shown on the annexed map*, shall be subject to verification and demarcation on the spot by a Joint Commission of Delimitation, consisting of two or more Japanese and two or more Chinese Delegates, to be appointed immediately after the exchange of the ratifications of this Act. In case the boundaries laid down in this Act are found to be defective at any point, either on account of topography or in consideration of good administration, it shall also be the duty of the Delimitation Commission to rectify the same.

The Delimitation Commission will enter upon its duties as soon as possible, and will bring its labours to a conclusion within the period of one year after appointment.

The alignments laid down in this Act shall, however, be maintained until the ratifications of the Delimitation Commission, if any are made, shall have received the approval of the Governments of Japan and China.

ARTICLE IV.

War Indemnity to be paid by China to Japan.

China agrees to pay to Japan as a war indemnity the sum of 200,000,000 Kuping taels. The said sum to be paid in eight instalments. The first instalment of 50,000,000 taels to be paid within six months, and the second instalment of 50,000,000 taels to be paid within twelve months after the exchange of the ratifications of this Act. The remaining sum to be paid in six equal annual instalments as follows: the first of such equal annual instalments to be paid within two years, the second within three years, the third within four years, the fourth within five years, the

* Not published with Treaty. Article suppressed by Art. 1 of Convention of 8th November, 1895. Page 714.

fifth within six years, and the sixth within seven years after the exchange of the ratifications of this Act. Interest at the rate of 5 per cent. per annum shall begin to run on all unpaid portions of the said indemnity from the date the first instalment falls due.

China shall, however, have the right to pay by anticipation at any time any or all of said instalments. In case the whole amount of the said indemnity is paid within three years after the exchange of the ratifications of the present Act, all interest shall be waived, and the interest for two years and a half, or for any less period if then already paid, shall be included as a part of the principal amount of the indemnity.

ARTICLE V.

Right of Inhabitants to emigrate from Territory ceded to Japan.

The inhabitants of the territories ceded to Japan who wish to take up their residence outside the ceded districts shall be at liberty to sell their real property and retire. For this purpose a period of two years from the date of the exchange of the ratifications of the present Act shall be granted. At the expiration of that period those of the inhabitants who shall not have left such territories shall, at the option of Japan, be deemed to be Japanese subjects.

Appointment of Commissioners to effect transfer of Formosa to Japan.

Each of the two Governments shall, immediately upon the exchange of the ratifications of the present Act, send one or more Commissioners to Formosa to effect a final transfer of that province, and within the space of two months after the exchange of the ratifications of this Act such transfer shall be completed.

ARTICLE VI.

Termination of previous Treaties between China and Japan. New Treaties of Commerce, &c., to be concluded.

All Treaties between Japan and China having come to an end in consequence of war, China engages, immediately upon the exchange of the ratifications of this Act, to appoint Plenipotentiaries to conclude with the Japanese Plenipotentiaries a Treaty of Commerce and Navigation, and a Convention to regulate frontier intercourse and trade. The Treaties, Conventions, and Regulations now subsisting between China and European Powers shall serve as a basis for the said Treaty and Convention between Japan and China.

Most-favoured-nation Treatment to be conceded by China to Japan.

From the date of the exchange of the ratifications of this Act until the said Treaty and Convention are brought into actual operation, the Japanese Government, its officials, commerce, navigation, frontier intercourse and trade, industries, ships, and subjects shall, in every respect, be accorded by China most-favoured-nation treatment.

Further Chinese Cities, Towns, and Ports to be opened to Japanese Trade, Industries, &c.

China makes, in addition, the following concessions, to take effect six months after the date of the present Act:—

1. The following cities, towns, and ports, in addition to those already opened, shall be opened to the trade, residence, industries, and manufactures of Japanese subjects, under the same conditions, and with the same privileges and facilities as exist at the present open cities, towns, and ports of China.

(1.) Shashih, in the Province of Hupeh.

(2.) Chung-king, in the Province of Szechuan.

(3.) Suchow, in the Province of Kiang Su.

(4.) Hang-chow, in the Province of Chekiang.

Appointment of Japanese Consuls at New Ports.

The Japanese Government shall have the right to station Consuls at all or any of the above-named places.

Extension of Steam Navigation on Upper Yangtsze River, and on Woosung River and Canal.

2. Steam navigation for vessels under the Japanese flag for the conveyance of passengers and cargo shall be extended to the following places:—

(1.) On the Upper Yang-tsze River, from I-chang to Chung-king.

(2.) On the Woosung River and the Canal, from Shanghae to Suchow and Hang-chow.

Navigation of Inland Waters of China.

The Rules and Regulations which now govern the navigation of the inland waters of China by foreign vessels shall, so far as applicable be enforced in respect of the above-named routes until new Rules and Regulations are conjointly agreed to.

Japanese Trade with the Interior of China. Right to rent or hire Warehouses, &c.

3. Japanese subjects purchasing goods or produce in the interior of China or transporting imported merchandize into the

interior of China, shall have the right temporarily to rent or hire warehouses for the storage of the articles so purchased or transported, without the payment of any taxes or exactions whatever.

Engagement of Japanese in Manufacturing Industries in Chinese Open Towns and Ports. Importation of Machinery.

4. Japanese subjects shall be free to engage in all kinds of manufacturing industries in all the open cities, towns, and ports of China, and shall be at liberty to import into China all kinds of machinery, paying only the stipulated import duties thereon.

Treatment of Articles manufactured by Japanese Subjects in China. Inland Transit and Internal Taxes.

All articles manufactured by Japanese subjects in China shall, in respect of inland transit and internal taxes, duties, charges, and exactions of all kinds, and also in respect of warehousing and storage facilities in the interior of China, stand upon the same footing and enjoy the same privileges and exemptions as merchandize imported by Japanese subjects into China.

In the event additional Rules and Regulations are necessary in connection with these concessions, they shall be embodied in the Treaty of Commerce and Navigation provided for by this Article.

ARTICLE VII.

Japanese Evacuation of Chinese Territory.

Subject to the provisions of the next succeeding Article, the evacuation of China by the armies of Japan shall be completely effected within three months after the exchange of the ratifications of the present Act.

ARTICLE VIII.*

Temporary Occupation of Wei-hai-wei by Japanese Troops.

As a guarantee of the faithful performance of the stipulations of this Act, China consents to the temporary occupation by the military forces of Japan of Wei-hai-wei, in the Province of Shantung.

Assignment of Customs Revenue of China as Security for payment of Indemnity.

Upon the payment of the first two instalments of the war indemnity herein stipulated for and the exchange of the ratifications of the Treaty of Commerce and Navigation, the said place shall be evacuated by the Japanese forces, provided the Chinese Govern-

* See also Separate Article I. Page 682.

ment consents to pledge, under suitable and sufficient arrangements, the Customs Revenue of China as security for the payment of the principal and interest of the remaining instalments of said indemnity. In the event no such arrangements are concluded, such evacuation shall only take place upon the payment of the final instalment of said indemnity.

It is, however, expressly understood that no such evacuation shall take place until after the exchange of the ratifications of the Treaty of Commerce and Navigation.

ARTICLE IX.

Prisoners of War. Amnesty.

Immediately upon the exchange of the ratifications of this Act, all prisoners of war then held shall be restored, and China undertakes not to ill-treat or punish prisoners of war so restored to her by Japan. China also engages to at once release all Japanese subjects accused of being military spies or charged with any other military offences. China further engages not to punish in any manner, nor to allow to be punished, those Chinese subjects who have in any manner been compromised in their relations with the Japanese army during the war.

ARTICLE X.

Cessation of Military operations on exchange of Ratifications.

All offensive military operations shall cease upon the exchange of the ratifications of this Act.

ARTICLE XI.

Ratifications to be exchanged.

The present Act shall be ratified by their Majesties the Emperor of Japan and the Emperor of China, and the ratifications shall be exchanged at Chefoo on the 8th day of the 5th month of the 28th year of Meiji, corresponding to 14th day of the 4th month of the 21st year of Kuang Hsu (May 8, 1895).

In witness whereof, the respective Plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done at Shimonoseki, in duplicate this 17th day of the 4th month of the 28th year of Meiji, corresponding to 23rd day of the 3rd month of the 21st year of Kuang Hsu (April 17, 1895.)

(L.S.) Count ITO HIROBUMI, *Junii, Grand Cross of the Imperial Order of Paulownia, Minister-President of State, Plenipotentiary of His Majesty the Emperor of Japan.*

(L.S.) Viscount MUTSU MUNEMITSU, *Junii, First Class of the Imperial Order of the Sacred Treasure, Minister of State for Foreign Affairs, Plenipotentiary of His Majesty the Emperor of Japan.*

(L.S.) LI HUNG-CHANG, *Plenipotentiary of His Majesty the Emperor of China, Senior Tutor to the Heir Apparent, Senior Grand Secretary of State, Minister-Superintendent of Trade for the Northern Ports of China, Viceroy of the Province of Chihli, and Earl of the First Rank.*

(L.S.) LI CHING-FONG, *Plenipotentiary of His Majesty the Emperor of China, Ex-Minister of the Diplomatic Service, of the Second Official Rank.*

SEPARATE ARTICLES.

ARTICLE I.

Temporary occupation of Wei-hai-wei by Japanese.

The Japanese military forces which are, under Article VIII of the Treaty of Peace signed this day, to temporarily occupy Wei-hai-wei shall not exceed one brigade, and from the date of the exchange of the ratifications of the said Treaty of Peace, China shall pay annually one-fourth of the amount of the expenses of such temporary occupation, that is to say, at the rate of 500,000 Kuping taels per annum.

ARTICLE II.

Liu-Kung and belt of land to be included in Japanese occupation of Wei-hai-wei.

The territory temporarily occupied at Wei-hai-wei shall comprise the Island of Liu-Kung and a belt of land 5 Japanese *ri* wide along the entire coast-line of the Bay of Wei-hai-wei.

Chinese Troops not to approach within a certain specified distance.

No Chinese troops shall be permitted to approach or occupy any places within a zone of 5 Japanese *ri* wide beyond the boundaries of the occupied territory.

ARTICLE III.

Civil administration of Wei-hai-wei to remain in hands of the Chinese.

The civil administration of the occupied territory shall remain in the hands of the Chinese authorities. But such authorities shall at all times be obliged to conform to the orders which the

commander of the Japanese army of occupation may deem it necessary to give in the interest of the health, maintenance, safety, distribution, or discipline of the troops.

Military offences to be within Japanese Jurisdiction.

All military offences committed within the occupied territory shall be subject to the jurisdiction of the Japanese military authorities.

The foregoing separate Articles shall have the same force, value, and effect as if they had been word for word inserted in the Treaty of Peace signed this day.

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Shimonoseki, in duplicate, this 17th day of the 4th month of the 28th year of Meiji, corresponding to the 23rd day of the 3rd month of the 21st year of Kwang Hsu. (April 17, 1895.)

[Here follow the same signatures.]

JAPANESE PROCLAMATION, May 10, 1895.

*Ceded Districts of the Fêng-tien Peninsula, not to be held permanently.**

(Translation.)

WE recently, at the request of the Emperor of China, appointed Plenipotentiaries for the purpose of conferring with the Ambassadors sent by China, and of concluding with them a Treaty of Peace between the two Empires. Since then the Governments of the two Empires of Russia and Germany and of the French Republic, considering that the permanent possession of the ceded districts of the Fêng-tien Peninsula by the Empire of Japan would be detrimental to the lasting peace of the Orient, have united in a friendly recommendation to our Government to refrain from holding these districts permanently.

Earnestly desirous as we always are for the maintenance of peace, nevertheless we were forced to commence hostilities against China for no other reason than our sincere desire to secure for the Orient an enduring peace. The Governments of the three Powers are, in offering their friendly recommendation, similarly actuated by the same desire; and we, out of our regard for peace, do not hesitate to accept their advice. Moreover, it is not our wish to cause suffering to our people, or to impede the progress of the national destiny by embroiling the Empire in new complications, and thereby imperilling the situation and retarding the restoration of peace.

* Retroceded to China by Convention of 8th November 1895. See page 713

China has already shown, by the conclusion of the Treaty of Peace, the sincerity of her repentance for her breach of faith with us, and has made manifest to the world our reasons and the object we had in view in waging war with that Empire.

Under these circumstances we do not consider that the honour and dignity of the Empire will be compromised by resorting to magnanimous measures, and by taking into consideration the general situation of affairs.

We have therefore accepted the advice of the friendly Powers, and have commanded our Government to reply to the Governments of the three Powers to that effect.

We have specially commanded our Government to negotiate with the Chinese Government respecting all arrangements for the return of the peninsular districts. The exchange of the ratifications of the Treaty of Peace has now been concluded, the friendly relations between the two Empires have been restored, and cordial relations with all other Powers have been strengthened.

We therefore command all our subjects to respect our will, to take into careful consideration the general situation, to be circumspect in all things, to avoid erroneous tendencies, and not to impair or thwart the high aspirations of our Empire.

(Imperial sign-manual.)

(Countersigned by all the Ministers of State.)

May 10, 1895.

(App. 12.) *ARRANGEMENT. France and China. Acquisition by French Missionaries of Land or House Property in the Interior of China.* 1865—1895.

In February, 1865, the Tsungli Yamên made an arrangement with the French Minister, in accordance with which the following procedure was to be adopted in the case of the acquisition by French missionaries of land or house property in the interior of China. The title deed was to state the name of the seller or the person executing the transfer, and was to set forth that the property was to be held in common by the members of the local Catholic Church. Special mention was not to be made of any missionary or convert, so as to leave no doubt that the ground still remained Chinese soil. It was further stipulated that owners of property should, before disposing of it in this way, intimate their intention to the local authorities and solicit the instructions of the latter as to whether the sale was permissible or not. On receiving the sanction of the authorities they would be at liberty to complete the transaction, but no direct sale of private property would be allowed.

Later Modification agreed upon between M. Gérard, French Minister at Peking, and Tsungli Yamên (early in 1895).

Hereafter, if French missionaries go into the interior to purchase land or houses, the title deed shall specify clearly the name of the seller, and shall state that the property has been sold to become part of the collective property of the Catholic Mission in the locality where it is situated. It will be unnecessary to record on the deed the name of a missionary or of a native Christian. After the deed has been completed, the Catholic Mission will pay the cost of registration as fixed by Chinese law. The seller shall not be required to inform the local authorities of his intention to sell nor need he ask beforehand their authorization of the sale.

(App. 13.) *IMPERIAL DECREE ordering the Protection of all Missionary Establishments in China, August 9, 1895.*[*]

EVER since the establishment of commercial intercourse with the various Western Powers, foreigners have sojourned in the interior of the country, and peaceful relations have prevailed between them and Chinese. The Imperial Court regards them all with the same benevolent kindness, and the high provincial authorities have received repeated instructions to afford full protection at all times. Nevertheless, there have been recently cases of the burning and destruction of missionary establishments in the capital of the province of Szechuan, and the excitement which was simultaneously stirred up spread to several Departments and districts.

Just now a further case has been reported from Fukien, in which bandits of the Kutien district murdered and wounded a large number of foreigners, and went so far even as to kill women and children. These bloodthirsty and violent proceedings assuredly deserve the utmost abhorrence.

In the Szechuan case arrests have been made of the offenders, and an investigation has been instituted.

In the Fukien affair the ringleaders and principal offenders are still being searched for, and we command Ch'ung-yu and Pien Pao-hsiao to direct the civil and military authorities to lose no time in closing in upon them and securing their apprehension and not to allow them to slip through the net.

Desperate characters of this class who fabricate stories and

[*] "Extract from the 'Peking Gazette' of August 9, 1895.

inflame the popular mind are to be found in large numbers everywhere.

The essential point is that the local authorities should at all times take timely precautions to check the trouble in its incipient stage. How comes it then that following the general example they fall into routine ways which result in the occurrence of such grave questions?

We command the Manchu Generals-in-chief, the Viceroys and Governors of the various provinces to issue general instructions to all their subordinates, enjoining upon them the absolute necessity of using their utmost efforts to afford protection in all places where there are missionary establishments, and calling upon them to notify the people that they must not listen to idle stories and wantonly create suspicion and bad feeling. Should they have the audacity to seize upon any pretext to create trouble, they will certainly be punished with all the rigour of the law.

Local authorities who perversely go astray in the managements of these matters will be severely punished without the least mercy.

Let this be proclaimed for general information.

(App. 14.) *CONVENTION between China and Japan for the Retrocession of Liao-Tung (Feng Tien Peninsula).—Signed at Peking, 8th November,* 1895.

His Majesty the Emperor of Japan, and His Majesty the Emperor of China, desiring to conclude a Convention for the retrocession by Japan of all the southern portion of the province of Feng Tien to the sovereignty of China, have for that purpose named as their plenipotentiaries, that is to say:—

His Majesty the Emperor of Japan, Baron Hayashi Tadasu, Shoshii Grand Cross of the Imperial Order of the Sacred Treasure, Grand Officer of the Imperial Order of the Rising Sun, Minister Plenipotentiary and Envoy Extraordinary; and His Majesty the Emperor of China, Li Hung-Chang, Minister Plenipotentiary, Senior Tutor of the Heir Apparent, Senior Grand Secretary of State, and Earl of the First Rank;

Who, after having communicated to each other their full powers, which were found to be in good and proper form, have agreed upon the following Articles:—

ARTICLE I.

Retrocession to China of portion of Feng Tien.

Japan retrocedes to China, in perpetuity and full sovereignty, the southern portion of the province of Feng Tien, which was ceded to Japan under Article II of the Treaty of Shimonoseki of the 17th day of the 4th month of the 28th year of Meiji, corresponding to the 23rd day of the 3rd month of the 21st year of Kuang Hsu [April 17, 1895, Appendix II], together with all fortifications, arsenals, and public property thereon at the time the retroceded territory is completely evacuated by the Japanese forces in accordance with the provisions of Article III of this Convention, that is to say, the southern portion of the province of Feng Tien from the mouth of the River Yalu to the mouth of the River Anping, thence to Feng Huang Ch'êng, thence to Hai-chêng, and thence to Ying-Kow; also all cities and towns to the south of this boundary, and all islands appertaining or belonging to the province of Feng Tien, situated in the eastern portion of the Bay of Liao-Tung, and in the northern part of the Yellow Sea. Article III of the said Treaty of Shimonoseki is in consequence suppressed, as are also the provisions in the same Treaty with reference to the conclusion of a Convention to regulate frontier intercourse and trade.

ARTICLE II.

Compensation to Japan for Retrocession of Feng Tien.

As compensation for the retrocession of the southern portion of the province of Feng Tien, the Chinese Government engage to pay to the Japanese Government 30,000,000 kuping taels on or before the 16th day of the 11th month of the 28th year of Meiji, corresponding to the 30th day of the 9th month of the 21st year of Kuang Hsü (November 16, 1895).

ARTICLE III.

Indemnity.

Within three months from the day on which China shall have paid to Japan the compensatory indemnity of 30,000,000 kuping taels provided for in Article II of this Convention, the retroceded territory shall be completely evacuated by the Japanese forces.

ARTICLE IV.

Amnesty.

China engages not to punish, in any manner, nor to allow to be punished, those Chinese subjects who have in any manner been compromised in connection with the occupation by the Japanese forces of the retroceded territory.

ARTICLE V.

English Version of Convention to be Binding.

The present Convention is signed in duplicate in the Japanese,

Chinese, and English languages. All these texts have the same meaning and intention, but, in case of any differences of interpretation between the Japanese and Chinese texts, such differences shall be decided by reference to the English text.

ARTICLE VI.

Ratifications.

The present Convention shall be ratified by His Majesty the Emperor of Japan and His Majesty the Emperor of China, and the ratifications thereof shall be exchanged at Peking within 21 days from the present date. (See Protocol annexed.)

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Peking this 8th day of the 11th month of the 28th year of Meiji, corresponding to the 22nd day of the 9th month of the 21st year of Kuang Hsu (November 8, 1895).

[Here follow the signatures and seals in Japanese and Chinese.]

— —

PROTOCOL.

Ratifications.

In view of the insufficiency of time to effect a formal exchange of the ratifications of the Convention between Japan and China, signed this day, respecting the retrocession of the peninsula of Feng Tien, before the date named in the said Convention for certain stipulations thereof to take effect, the Government of His Majesty the Emperor of Japan and the Government of His Majesty the Emperor of China, in order to prevent the possibility of delay in putting into execution the several provisions of the said Convention, have, through their respective Plenipotentiaries, agreed upon the following stipulation:—

The Governments of Japan and China shall, within the period of five days after the date of this Protocol, announce to each other through the undersigned, their respective Plenipotentiaries, that the said Convention has received the approval of His Majesty the Emperor of Japan and His Majesty the Emperor of China respectively, and thereupon the said Convention, in all its parts, shall come into operation as fully and effectually as if the ratifications thereof had actually been exchanged.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Peking this 8th day of the 11th month of the 28th year of Meiji, corresponding to the 22nd day of the 9th month of the 21st year of Kuang Hsu (November 8, 1895).

[Here follow signatures and seals in Japanese and Chinese.]

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* The Port known to Europeans under the name of Chefoo is in reality the town of Yen Tai, on the north side of the promontory of Shan-tung. The city actually designated by the Treaty of Tien-tsin as that to be thrown open is Tông-chow-fu (Denny's "Treaty Ports of China," 1867, p. 456).

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,, ..	,, ,,	.. Belgium	21	11	113
,, ..	,, ,,	.. Denmark	25	11	140
,, ..	Kue-kiang ,,	.. Germany	35	6	214
,, ..	,, ,,	.. .. Italy	38	11	234
,, ..	Kiu-kiang ,,	.. ..Japan	39	2	247
,, ..	,, ,,	.. Netherlands	42	2	258
,, ..	,, ,,	.. .. Spain	60	5	365
,, ..	KIUNG-CHOW. (In Hainan Island)	Great Britain	6	11	20
,, ..	To be removed from List of Treaty Ports (not ratified)	..	11	6	61
,, ..	,, ,,	Austria-Hungary	20	8	108
,, ..	,, ,,	.. Belgium	21	11	113
,, ..	,, ,,	.. Denmark	25	11	140
,, ..	Kiung-Tchau ,,	.. France	27	6	165
,, ..	Hiong-tcheou ,,	.. Germany	35	6	214
,, ..	Kiungchow ,,	.. .. Italy	38	11	234
,, ..	Kiungchow (In Hainan Island)	..Japan	39	2	247
,, ..	,, ,,	.. Netherlands	42	2	258
,, ..	Chiung-chou ,,	.. .. Spain	60	5	365
,, ..	KWANGCHOU. See Canton.				
,, ..	LONG-TCHEOU or Lung-Chow. (In Kwang-Si)..	.. France	35	2	208

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,, ..	MONG-TSEU. (In Yunnan) ..		,,	33	2	202
,, ..	MANWYNE (Yunnan) ..		Great Britain	App. 9	13	696
,, ..	NANKING.* (On the Yang-tse River, in Province of Kiang-su)		Great Britain	6	9	20*
,, ..	,, ,,		Austria-Hungary	20	8	103
,, ..	,, ,, ..		Belgium	21	11	113
,, ..	,, ,, ..		Denmark	25	11	140
,, ..	Nankin ,, ..		France	27	6	166*
,, ..	,, ,, ..		.. Italy	28	11	234
,, ..	,, ,, ..		.. Spain	60	5	365
,, ..	NEWCHWANG. (In Province of Liau-Tung, Tung-t'ien, or Shêng-King)		Great Britain	6	11	20
,, ..	? ,,		Austria-Hungary	20	8	103
,, ..	Niu-chuang ,,		Belgium	21	11	113
,, ..	,, ,,		Denmark	25	11	140
,, ..	? ,,		France	26	2	149
,, ..	Nieou-tchoang ,,		Germany	35	6	214
,, ..	Niu-chuan ,,		Italy	38	11	234
,, ..	New-chwang ,,		Japan	39	2	247
,, ..	,, ,,		Netherlands	42	2	258
,, ..	Niu-chuang ,,		Spain	60	5	365
,, ..	NINGPO. (In Province of Che-kiang on the River Yung)		Great Britain	1	2	5
,, ..	Ningpo ,,		Austria-Hungary	20	8	103
,, ..	,, ,,		Belgium	21	11	113
,, ..	,, ,,		.. Denmark	25	11	140
,, ..	Ning-Pô ,,		.. France	26	2	149
,, ..	Ningpo ,,		.. Germany	35	6	214
,, ..	,, ,,		.. Italy	38	11	234
,, ..	,, ,,		.. Japan	39	2	247
,, ..	,, ,,		Netherlands	42	2	258
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,, ..	NIU-CHWANG. See New-Chang.					
,, ..	PAGODA ISLAND. (Anchorage for Foreign Vessels proceeding to Foo-chow.) See Foo-chow-foo.					
. ..	PAKHOI or Pei-hai. (In Province of Kwang-tung)		Great Britain	12	3, § 1	76
,, ..	,, ,, ..		Germany	36	1	224
,, ..	SHAH-SHI. (In Province of Ho-pei. On the Yang-tse between Hankow and Ichang.) To be opened to Trade ..		Japan	App. 11	6	706
,, ..	SHANGHAI. (In Province of Kiang-Su), about 12 miles up the River Wong poo, which discharges itself into the Yang-tse ..		Great Britain	1	2	5

* Passports not to be granted for, whilst Port is in occupation of rebels (Taipings). No Foreign Consulate yet established at this Port (1894).

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.. ..	.. ..	.. Denmark	25	11	140
.. ..	Chang-Hai ..	.. France	26	2	149
.. ..	.. ..	. Germany	36	6	214
.. .	Chan gai .	. .. Italy	38	11	234
.. ..	Shanghai ..	.. .. Japan	39	2	247
.. ..	Shanghae ..	.. Netherlands	42	2	258
.. ..	Sang hay ..	.. .. Spain	60	5	365
.. ..	S' anghai ..	United States	63	3	385
.. ..	.. ..	..	64	14	402
.. ..	Soo chow or Su ch ow (Capital of Province of Kiang Su) To be opened to Trade . .	.. Japan	App. II	6	706
.. ..	Swatow (At Mouth of the River Han, in Province of Kwantung. Is the Shipping Port for the City of Chau-Chow, or Chaochow fu)	Great Britain	6	11	20
.. ..	Swatow ..	Austria-Hungary	20	8	103
.. ..	. ..	.. Belgium	21	11	113
.. ..	.. .	.. Denmark	25	11	140
.. ..	Chaou Chaou ..	France	27	6	149
.. ..	Tchoun-tchoun .	.. Germany	35	6	214
.. ..	Swatow ..	.. .. Italy	38	11	234
.. ..	. .	.. .. Japan	39	2	247
.. ..	.. ..	. Netherlands	42	2	258
.. ..	Swatau ..	.. .. Spain	60	5	365
.. .	Chaochow of Swatau ..	United States	64	14	402
.. ..	TAASHWI. See Tamsui				
.. ..	TAIWAN or Tamai. (In the Island of Formosa now Japanese)	Great Britain	6	11	20
.. ..	Taiwan-foo ..	Austria-Hungary	20	8	103
.. ..	Taiwan-foo .	.. Belgium	21	11	113
.. ..	Taiwan fu .	. Denmark	25	11	140
.. ..	Taiwan	.. France	27	6	165
.. ..	Taiwan	. Germany	35	6	214
.. ..	Taiwan	.. .. Italy	38	11	234
.. ..	Taiwan	. .. Japan	39	2	247
.. .	. .	.. Netherlands	42	2	258
.. ..	Taiwan .	.. .. Spain	60	5	365
..	Taiwan .	United States	64	14	402
.. ..	Tamsui . (In the Island of Formosa now Japanese) ..	Great Britain	6	11	20 Note
. .	.	Austria-Hungary	20	8	103
.	.	Belgium	21	11	113
.	.	Denmark	25	11	140
	Tamsui or Tashwi	France	27	6	165
	Tamsui	Germany	35	6	214
.	.	.. .. Italy	38	11	234
	.	.. Japan	39	2	247

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„ ..	TANG-CHOW or Tan-tchau. See Chefoo.			
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„ ..	TIEN-TSIN or Tien-tsing. (On the Pei-ho. In Province of Pe-chi-li.) Great Britain	8	4	46
„ ..	„ „ Austria-Hungary	20	8	103
„ ..	„ „ .. Belgium	21	11	113
„ ..	„ „ .. Denmark	25	11	140
„ ..	„ „ .. Germany	35	6	214
„ ..	„ „ .. .. Italy	38	11	234
„ ..	„ „ .. Japan	39	2	246
„ ..	„ „ .. Netherlands	42	2	258
„ ..	„ „ .. .. Spain	60	5	365
„ ..	WÊNCHOW. (In Province of Che-kiang) .. „ .. Great Britain	11	6	61
.. ..	„ „ „	12	3, § 1	76
.. ..	„ „ .. Germany	36	1	224
„ ..	WUHU. (In Province of An-hui, on the Yang-tse River) .. Great Britain	11	13	64
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.. ..	„ „ .. Germany	36	1	224
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